

**From:**  
**To:** [criwebcomment@navy.mil](mailto:criwebcomment@navy.mil)  
**Cc:** [LCDR USN JRM](#); [NAVFACMAR](#); [litekyan.opa@gmail.com](mailto:litekyan.opa@gmail.com)  
**Subject:** [Non-DoD Source] Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)  
**Date:** Saturday, April 3, 2021 6:35:40 PM

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April 3, 2021

Submitted Via Email – [criwebcomment@navy.mil](mailto:criwebcomment@navy.mil)

Naval Facilities Engineering Command Pacific

ATTN: CRI Web Comments, Code EV23

258 Makalapa Drive, Suite 100

Pearl Harbor, Hawaii 96860-3134

Re: Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)

Hafa adai:

Thank you for the opportunity to comment on the Department of Defense's (DoD) Programmatic Agreement (PA) Memo #1 regarding Projects J-011 and J-025, dated February 18, 2021. I am a resident of Guam with a strong interest in preserving and protecting the indigenous CHamoru people's cultural heritage and historical properties. Guam is my home, and my interest extends to protecting its "beliefs, the culture, the language, the air, the water and the land of the Chamorro[.]" To this end, I have a strong interest in ensuring that federal actions and decision—such as the decisions in connection with the PA Memo on Projects J-011 and J-025—do not harm or have the potential to harm Guam, its indigenous people and residents, and its cultural and natural resources.

I, Juanita Marie Domingo Castro, am STRONGLY AGAINST the DoD's decision in the PA Memo because the DoD (1) did not properly identify historic properties; and (2) made mistakes in determining the projects will have no historic properties affected. The PA Memo's decision is likely to lead to more destruction instead of preserving and protecting the indigenous CHamoru people's cultural resources.

#### I. Ancient CHamoru Village of Magua and the DoD's Damages

The indigenous CHamoru people settled in Guam, the southernmost and largest island in the Marianas archipelago, over 3,500 years ago. The CHamoru people of Guam were an organized cultural and linguistic society marked by advanced seafaring, horticulture, hunting, and fishing. By 800 A.D., CHamoru villages were characterized by unique latte structures, one-story houses resting on sizable limestone, basalt, or sandstone pillars and capstones. As indigenous Pacific Islanders, the ancient CHamoru people developed a unique culture with

a legacy of historical sites throughout Guam. These prehistoric and historic sites include the Ancient CHamoru Magua Village.

The CHamoru people cared for and tended to Magua since time immemorial. For example, Antonio Artero and several CHamoru families tended to the land and raised crops and livestock. “Due to the relative isolation on the remote uninhabited northwestern coast of Guam and later within the large Artero ranch, the CHamoru heritage resources of Magua village were essentially undisturbed until the end of World War II.”

In 2018, the DoD cleared remnants of the ancient village of Magua. Human remains were recovered on the site, and ancient CHamoru medicinal tools and artifacts such as “[p]ieces of lusong, mortars, and latte stones[.]” At the time, Guam’s State Historic Preservation Office (SHPO) raised several concerns regarding the lack of proper surveying and the DoD’s failure to take into account all adverse effects on historic properties. In response to the disruption of ancient human remains and the destruction of the ancient village, PLSR organized a peaceful protest demonstration of the DoD’s bulldozing and removal of ancient CHamoru historical properties. Despite indigenous and local opposition, the DoD continued to clear and construct on the ancient village of Magua.

In 2020, the DoD disturbed and unearthed more human remains in the ancient village. The disturbances included “a nearly intact skeleton with no skull present,” two skeletons buried together, and a skeleton of a juvenile. The displacement of human remains and burials led to community outcry. PLSR and community leaders demanded the DoD to stop disturbing ancient burial grounds and to halt construction.

## II. Comments Against the DoD’s PA MEMO

I am deeply concerned about the DoD did not properly identify historic properties located in Projects J-011 and J-025. First, the DoD fails to mention that the project is located in the ancient CHamoru Village of Magua. Next, the DoD did not make a reasonable and good faith effort in identifying historic properties by means of oral history interviews, sample field investigations, field surveys, and background research. For example, the DoD did not reach out or talk to the indigenous people whose families used to live, own, and inhabit the lands subject to be used for the Projects. I am also concerned that the DoD is not documenting the human remains that disturbed, unearthed, removed, and displaced from Magua Village. Lastly, I am concerned that the DoD awarded nearly a billion dollars to construct the projects before identifying and traditional and indigenous historic properties in Maguak Village. Therefore, the PA Memo does not preserve or protect the historic properties of the indigenous people located within the project location.

I object to further clearing at the site for the proposed marine base due to inadequate background research, the desecration of our ancient burials and the permanent destruction of our land, and invaluable resources. It is highly apparent that mitigation measures are not stopping the desecration of CHamoru burials and this is an affront to our human dignity and human rights as an indigenous people.

I am also concerned that the DoD made a mistake in determining the projects will have no historic properties affected. The DoD’s analysis is unclear. Although the PA Memo has a bibliography of materials and studies, the DoD does

not make those publically available to help the public understand the basis of its determination.

### III. Conclusion

I urge you, the DoD, that all necessary measures be taken to halt the alleged violations and to prevent any further harms to the ancient village of Magua. The CHamoru people deserve to be recognized and to be heard, especially as the indigenous people and Guam has been a reliable and committed ally to the DoD. I respectfully request the DoD not to proceed with constructing the projects due to several federal law compliance issues, and in light of the United Nations Letter to the U.S. President and Commander-in-Chief Biden.

Si Yu'os ma'åse',

Juanita Marie Domingo Castro

## COMMENT # 2

**From:**

**To:**

**Subject:** Fwd: Undeliverable: [Non-DoD Source] Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)

**Date:** Saturday, April 3, 2021 10:00:52 PM

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Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)

April 3, 2021

**Submitted Via Email – [criwebcomment@navy.mil](mailto:criwebcomment@navy.mil)**

Naval Facilities Engineering Command Pacific

ATTN: CRI Web Comments, Code EV23

258 Makalapa Drive, Suite 100

Pearl Harbor, Hawaii 96860-3134

**Re:** Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)

*Hafa adai:*

Thank you for the opportunity to comment on the Department of Defense's (DoD) Programmatic Agreement (PA) Memo #1 regarding Projects J-011 and J-025, dated February 18, 2021. I am a resident of Guam with a strong interest in preserving and protecting the indigenous CHamoru people's cultural heritage and historical properties. Guam is my home, and my interest extends to protecting its "beliefs, the culture, the language, the air, the water and the land of the Chamorro[.]" To this end, I have a strong interest in ensuring that federal actions and decision—such as the decisions in connection with the PA Memo on Projects J-011 and J-025—do not harm or have the potential to harm Guam, its indigenous people and residents, and its cultural and natural resources.

I, Sage Luisa Sativa Domingo Castro, am **STRONGLY AGAINST** the DoD's decision in the PA Memo because the DoD (1) did not properly identify historic properties; and (2) made mistakes in determining the projects will have no historic properties affected. The PA Memo's decision is likely to lead to more destruction instead of preserving and protecting the indigenous CHamoru people's cultural resources.

### **I. Ancient CHamoru Village of Magua and the DoD's Damages**

The indigenous CHamoru people settled in Guam, the southernmost and largest island in the Marianas archipelago, over 3,500 years ago. The CHamoru people of Guam were an organized cultural and linguistic society marked by advanced seafaring, horticulture, hunting, and fishing. By 800 A.D., CHamoru villages were characterized by unique latte structures, one-story houses resting on sizable limestone, basalt, or sandstone pillars and capstones. As indigenous Pacific



Islanders, the ancient CHamoru people developed a unique culture with a legacy of historical sites throughout Guam. These prehistoric and historic sites include the Ancient CHamoru Magua Village.

The CHamoru people cared for and tended to Magua since time immemorial. For example, Antonio Artero and several CHamoru families tended to the land and raised crops and livestock. “Due to the relative isolation on the remote uninhabited northwestern coast of Guam and later within the large Artero ranch, the CHamoru heritage resources of Magua village were essentially undisturbed until the end of World War II.”

In 2018, the DoD cleared remnants of the ancient village of Magua. Human remains were recovered on the site, and ancient CHamoru medicinal tools and artifacts such as “[p]ieces of lusong, mortars, and latte stones[.]” At the time, Guam’s State Historic Preservation Office (SHPO) raised several concerns regarding the lack of proper surveying and the DoD’s failure to take into account all adverse effects on historic properties. In response to the disruption of ancient human remains and the destruction of the ancient village, PLSR organized a peaceful protest demonstration of the DoD’s bulldozing and removal of ancient CHamoru historical properties. Despite indigenous and local opposition, the DoD continued to clear and construct on the ancient village of Magua.

In 2020, the DoD disturbed and unearthed more human remains in the ancient village. The disturbances included “a nearly intact skeleton with no skull present,” two skeletons buried together, and a skeleton of a juvenile. The displacement of human remains and burials led to community outcry. PLSR and community leaders demanded the DoD to stop disturbing ancient burial grounds and to halt construction.

## **II. Comments Against the DoD’s PA MEMO**

I am deeply concerned about the DoD did not properly identify historic properties located in Projects J-011 and J-025. First, the DoD fails to mention that the project is located in the ancient CHamoru Village of Magua. Next, the DoD did not make a reasonable and good faith effort in identifying historic properties by means of oral history interviews, sample field investigations, field surveys, and background research. For example, the DoD did not reach out or talk to the indigenous people whose families used to live, own, and inhabit the lands subject to be used for the Projects. I am also concerned that the DoD is not documenting the human remains that disturbed, unearthed, removed, and displaced from Magua Village. Lastly, I am concerned that the DoD awarded nearly a billion dollars to construct the projects before identifying and traditional and indigenous historic properties in Maguak Village. Therefore, the PA Memo does not preserve or protect the historic properties of the indigenous people located within the project location.

I object to further clearing at the site for the proposed marine base due to inadequate background research, the desecration of our ancient burials and the permanent destruction of our land, and invaluable resources. It is highly apparent that mitigation measures are not

stopping the desecration of CHamoru burials and this is an affront to our human dignity and human rights as an indigenous people.

I am also concerned that the DoD made a mistake in determining the projects will have no historic properties affected. The DoD's analysis is unclear. Although the PA Memo has a bibliography of materials and studies, the DoD does not make those publically available to help the public understand the basis of its determination.

### III. Conclusion

I urge you, the DoD, that all necessary measures be taken to halt the alleged violations and to prevent any further harms to the ancient village of Magua. The CHamoru people deserve to be recognized and to be heard, especially as the indigenous people and Guam has been a reliable and committed ally to the DoD. I respectfully request the DoD not to proceed with constructing the projects due to several federal law compliance issues, and in light of the United Nations Letter to the U.S. President and Commander-in-Chief Biden.

*Si Yu'os ma'åse',*

## Sage Luisa Sativa Domingo Castro

----- Forwarded message -----

From: **Microsoft Outlook**

<[MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@navy.mil](mailto:MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@navy.mil)>

Date: Sat, Apr 3, 2021 at 9:58 PM

Subject: Undeliverable: [Non-DoD Source] Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)

To: <**Delivery has failed to these recipients or groups:**

[criwebcomment@navy.mil](mailto:criwebcomment@navy.mil)

The email address you entered couldn't be found. Please check the recipient's email address and try to resend the message. If the problem continues, please contact your helpdesk.

## COMMENT # 3

**From:** [The Social Progress Podcast](#)  
**To:** [criwebcomment@navy.mil](mailto:criwebcomment@navy.mil)  
**Cc:** [litekvan.opa@gmail.com](mailto:litekvan.opa@gmail.com);  
**Subject:** [Non-DoD Source] Conflict of Interest Memo  
**Date:** Saturday, April 3, 2021 6:31:20 PM

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Naval Facilities Engineering Command Pacific

ATTN: CRI Web Comments, Code EV23

258 Makalapa Drive, Suite 100

Pearl Harbor, Hawaii 96860-3134

Re: Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)

Hafa adai:

Thank you for the opportunity to comment on the Department of Defense's (DoD) Programmatic Agreement (PA) Memo #1 regarding Projects J-011 and J-025, dated February 18, 2021. I am a resident of Guam with a strong interest in preserving and protecting the indigenous CHamoru people's cultural heritage and historical properties. Guam is my home, and my interest extends to protecting its "beliefs, the culture, the language, the air, the water and the land of the Chamorro[.]" To this end, I have a strong interest in ensuring that federal actions and decision—such as the decisions in connection with the PA Memo on Projects J-011 and J-025—do not harm or have the potential to harm Guam, its indigenous people and residents, and its cultural and natural resources.

I, Chelsey Cruz am STRONGLY AGAINST the DoD's decision in the PA Memo because the DoD (1) did not properly identify historic properties; and (2) made mistakes in determining the projects will have no historic properties affected. The PA Memo's decision is likely to lead to more destruction instead of preserving and protecting the indigenous CHamoru people's cultural resources.

### 1. Ancient CHamoru Village of Magua and the DoD's Damages

The indigenous CHamoru people settled in Guam, the southernmost and largest island in the Marianas archipelago, over 3,500 years ago. The CHamoru people of Guam were an organized cultural and linguistic society marked by advanced seafaring, horticulture, hunting, and fishing. By 800 A.D., CHamoru villages were characterized by unique latte structures, one-story houses resting on sizable limestone, basalt, or sandstone pillars and capstones. As indigenous Pacific Islanders, the ancient CHamoru people developed a unique culture with a legacy of historical sites throughout Guam. These prehistoric and historic

sites include the Ancient CHamoru Magua Village.

The CHamoru people cared for and tended to Magua since time immemorial. For example, Antonio Artero and several CHamoru families tended to the land and raised crops and livestock. “Due to the relative isolation on the remote uninhabited northwestern coast of Guam and later within the large Artero ranch, the CHamoru heritage resources of Magua village were essentially undisturbed until the end of World War II.”

In 2018, the DoD cleared remnants of the ancient village of Magua. Human remains were recovered on the site, and ancient CHamoru medicinal tools and artifacts such as “[p]ieces of lusong, mortars, and latte stones[.]” At the time, Guam’s State Historic Preservation Office (SHPO) raised several concerns regarding the lack of proper surveying and the DoD’s failure to take into account all adverse effects on historic properties. In response to the disruption of ancient human remains and the destruction of the ancient village, PLSR organized a peaceful protest demonstration of the DoD’s bulldozing and removal of ancient CHamoru historical properties. Despite indigenous and local opposition, the DoD continued to clear and construct on the ancient village of Magua.

In 2020, the DoD disturbed and unearthed more human remains in the ancient village. The disturbances included “a nearly intact skeleton with no skull present,” two skeletons buried together, and a skeleton of a juvenile. The displacement of human remains and burials led to community outcry. PLSR and community leaders demanded the DoD to stop disturbing ancient burial grounds and to halt construction.

## 2. Comments Against the DoD’s PA MEMO

I am deeply concerned about the DoD did not properly identify historic properties located in Projects J-011 and J-025. First, the DoD fails to mention that the project is located in the ancient CHamoru Village of Magua. Next, the DoD did not make a reasonable and good faith effort in identifying historic properties by means of oral history interviews, sample field investigations, field surveys, and background research. For example, the DoD did not reach out or talk to the indigenous people whose families used to live, own, and inhabit the lands subject to be used for the Projects. I am also concerned that the DoD is not documenting the human remains that disturbed, unearthed, removed, and displaced from Magua Village. Lastly, I am concerned that the DoD awarded nearly a billion dollars to construct the projects before identifying and traditional and indigenous historic properties in Maguak Village. Therefore, the PA Memo does not preserve or protect the historic properties of the indigenous people located within the project location.

I object to further clearing at the site for the proposed marine base due to inadequate background research, the desecration of our ancient burials and the permanent destruction of our land, and invaluable resources. It is highly apparent that mitigation measures are not stopping the desecration of CHamoru burials and this is an affront to our human dignity and human rights as an indigenous people.

I am also concerned that the DoD made a mistake in determining the projects will have no historic properties affected. The DoD’s analysis is unclear. Although the PA Memo has a bibliography of materials and studies, the DoD does

not make those publically available to help the public understand the basis of its determination.

### 3. Conclusion

I urge you, the DoD, that all necessary measures be taken to halt the alleged violations and to prevent any further harms to the ancient village of Magua. The CHamoru people deserve to be recognized and to be heard, especially as the indigenous people and Guam has been a reliable and committed ally to the DoD. I respectfully request the DoD not to proceed with constructing the projects due to several federal law compliance issues, and in light of the United Nations Letter to the U.S. President and Commander-in-Chief Biden.

Si Yu'os ma'åse',

Chelsey Cruz



03 April 2021

Naval Facilities Engineering Command Pacific  
ATTN: CRI Web Comments, Code EV23  
258 Makalapa Drive, Suite 100  
Pearl Harbor, Hawaii 96860-3134

**Re:** Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)

*Håfa adai,*

*Si Yu'os ma'åse* for allowing us the opportunity to comment on the Department of Defense's (DoD) Programmatic Agreement (PA) Memo #1 regarding Projects J-011 and J-025, dated February 18, 2021. The Guam Youth Climate Strike is a Guam, youth-driven organization that focuses on elevating voices and empowering involvement in our community. We are residents and caretakers of Guam, and we believe in honoring the sacred relationship between people and land.

We, Guam Youth Climate Strike, declare **STRONG OPPOSITION** to the DoD's decision in the PA Memo because the DoD (1) did not properly identify historic properties; and (2) made mistakes in determining the projects will have no historic properties affected. Continued development will likely lead to more destruction instead of preserving and protecting the indigenous CHamoru people's cultural resources.

We are deeply concerned that the DoD failed to mention that the project is located in the ancient CHamoru Village of Magua, and did not make a reasonable and good faith effort in identifying historic properties by means of oral history interviews, sample field investigations, field surveys, and background research. Therefore, we continue to object to the clearing of the site for the proposed marine base due to inadequate background research, the desecration of our ancient burials and the permanent destruction of our land and invaluable resources.

We urge the DoD to halt development and address the violations on our ancient village of Magua and against the CHamoru people. We respectfully request the DoD not to proceed with continuing the projects due to several federal law compliance issues and in light of the United Nations Letter to the U.S. President and Commander-in-Chief Biden.<sup>1</sup>

Un dangkulu na Si Yu'os ma'åse, 'maraming salamat and kinisou,  
Guam Youth Climate Strike

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<sup>1</sup> The United Nations letter to U.S. President Biden requests: "While awaiting a reply, **we urge that all necessary interim measures be taken to halt the alleged violations** and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations," available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25885>.

## COMMENT # 5

**From:**  
**To:** [criwebcomment@navy.mil](mailto:criwebcomment@navy.mil)  
**Cc:** [litekyan.opa@gmail.com](mailto:litekyan.opa@gmail.com); [LCDR USN JRM](#); [USN NAVFACMAR](#)  
**Subject:** [Non-DoD Source] Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)  
**Date:** Saturday, April 3, 2021 4:50:12 PM

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Naval Facilities Engineering Command Pacific

ATTN: CRI Web Comments, Code EV23

258 Makalapa Drive, Suite 100

Pearl Harbor, Hawaii 96860-3134

Re: Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)

Hafa adai:

Thank you for the opportunity to comment on the Department of Defense's (DoD) Programmatic Agreement (PA) Memo #1 regarding Projects J-011 and J-025, dated February 18, 2021. I am a resident of Guam with a strong interest in preserving and protecting the indigenous CHamoru people's cultural heritage and historical properties. Guam is my home, and my interest extends to protecting its "beliefs, the culture, the language, the air, the water and the land of the Chamorro[.]"[1] To this end, I have a strong interest in ensuring that federal actions and decision—such as the decisions in connection with the PA Memo on Projects J-011 and J-025—do not harm or have the potential to harm Guam, its indigenous people and residents, and its cultural and natural resources.

I, Nicholas Dugan, am STRONGLY AGAINST the DoD's decision in the PA Memo because the DoD (1) did not properly identify historic properties; and (2) made mistakes in determining the projects will have no historic properties affected. The PA Memo's decision is likely to lead to more destruction instead of preserving and protecting the indigenous CHamoru people's cultural resources.

### Ancient CHamoru Village of Magua and the DoD's Damages

The indigenous CHamoru people settled in Guam, the southernmost and largest island in the Marianas archipelago, over 3,500 years ago. The CHamoru people of Guam were an organized cultural and linguistic society marked by advanced seafaring, horticulture, hunting, and fishing. By 800 A.D., CHamoru villages were characterized by unique latte structures, one-story houses resting on sizable limestone, basalt, or sandstone pillars and capstones. As indigenous Pacific Islanders, the ancient CHamoru people developed a unique culture with a legacy of historical sites throughout Guam. These prehistoric and historic sites include the Ancient CHamoru Magua Village.

The CHamoru people cared for and tended to Magua since time immemorial. For example, Antonio Artero and several CHamoru families tended to the land and raised crops and livestock. "Due to the relative isolation on the remote uninhabited northwestern coast of Guam and later within the large Artero ranch, the CHamoru heritage resources of Magua village were essentially

undisturbed until the end of World War II.”

In 2018, the DoD cleared remnants of the ancient village of Magua.[2] Human remains were recovered on the site, and ancient CHamoru medicinal tools and artifacts such as “[p]ieces of lusong, mortars, and latte stones[.]”[3] At the time, Guam’s State Historic Preservation Office (SHPO) raised several concerns regarding the lack of proper surveying and the DoD’s failure to take into account all adverse effects on historic properties.[4] In response to the disruption of ancient human remains and the destruction of the ancient village, PLSR organized a peaceful protest demonstration of the DoD’s bulldozing and removal of ancient CHamoru historical properties.[5] Despite indigenous and local opposition, the DoD continued to clear and construct on the ancient village of Magua.[6]

In 2020, the DoD disturbed and unearthed more human remains in the ancient village.[7] The disturbances included “a nearly intact skeleton with no skull present,” two skeletons buried together, and a skeleton of a juvenile.[8] The displacement of human remains and burials led to community outcry.[9] PLSR and community leaders demanded the DoD to stop disturbing ancient burial grounds and to halt construction.

#### Comments Against the DoD’s PA MEMO

I am deeply concerned about the DoD did not properly identify historic properties located in Projects J-011 and J-025. First, the DoD fails to mention that the project is located in the ancient CHamoru Village of Magua. Next, the DoD did not make a reasonable and good faith effort in identifying historic properties by means of oral history interviews, sample field investigations, field surveys, and background research. For example, the DoD did not reach out or talk to the indigenous people whose families used to live, own, and inhabit the lands subject to be used for the Projects. I am also concerned that the DoD is not documenting the human remains that disturbed, unearthed, removed, and displaced from Magua Village. Lastly, I am concerned that the DoD awarded nearly a billion dollars to construct the projects before identifying and traditional and indigenous historic properties in Maguak Village.[10] Therefore, the PA Memo does not preserve or protect the historic properties of the indigenous people located within the project location.

I object to further clearing at the site for the proposed marine base due to inadequate background research, the desecration of our ancient burials and the permanent destruction of our land, and invaluable resources. It is highly apparent that mitigation measures are not stopping the desecration of CHamoru burials and this is an affront to our human dignity and human rights as an indigenous people.

I am also concerned that the DoD made a mistake in determining the projects will have no historic properties affected. The DoD’s analysis is unclear. Although the PA Memo has a bibliography of materials and studies, the DoD does not make those publically available to help the public understand the basis of its determination.

#### Conclusion

I urge you, the DoD, that all necessary measures be taken to halt the alleged violations and to prevent any further harms to the ancient village of Magua. The CHamoru people deserve to be recognized and to be heard, especially as the



indigenous people and Guam has been a reliable and committed ally to the DoD.[11] I respectfully request the DoD not to proceed with constructing the projects due to several federal law compliance issues, and in light of the United Nations Letter to the U.S. President and Commander-in-Chief Biden.[12]

Si Yu'os ma'åse',

\_\_\_\_\_  
Nicholas Dugan

April 03, 2021

[1] Guam Pledge: Inifresi, Executive Order No. 98-28: "Inifresi," signed by Governor Carl T. C. Gutierrez on Oct 29, 1998. Government of Guam.

[2] Chloe Babuata, Ancient village at military base not fully surveyed, more human remains may be undiscovered, Pacific Daily News, (Nov. 27, 2018), <https://www.guampdn.com/story/news/2018/11/27/ancient-village-military-base-not-fully-surveyed-preservation-officer-says/1925172002/>.

[3] Id.

[4] Id.

[5] Chloe Babuata, Peaceful demonstration to protest military bulldozing ancient Chamoru village, Pacific Daily News, (Oct. 31, 2018), <https://www.guampdn.com/story/news/2018/10/31/peaceful-demonstration-protest-military-bulldozing-ancient-village/1829904002/>.

[6] Anumita Kaur, Marine base, live-fire training range halfway complete; 43 historic sites discovered, Pacific Daily News, (Jul. 13, 2020), <https://www.guampdn.com/story/news/local/2020/07/12/military-buildup-guam-dededo-marine-base-training-range-near-completion/5422669002/>.

[7] Id.

[8] Id.

[9] Id.

[10] First of nearly billion-dollar multiple award contracts announced, The Guam Daily Post (Jan. 14, 2021), [https://www.postguam.com/news/local/first-of-nearly-billion-dollar-multiple-award-contracts-announced/article\\_b454b3ac-50d6-11eb-95dd-6bdaad9d37a2.html](https://www.postguam.com/news/local/first-of-nearly-billion-dollar-multiple-award-contracts-announced/article_b454b3ac-50d6-11eb-95dd-6bdaad9d37a2.html).

[11] Joe Gould, 'Guam is a target today.' Pacific chief pitches Aegis Ashore to Congress, Defense News, (March 9, 2021), <https://www.defensenews.com/congress/2021/03/09/guam-is-a-target-today-pacific-chief-pitches-aegis-ashore-to-congress/>.

[12] The United Nations letter to U.S. President Biden requests: "While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations,"

available at

<https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25885>.

**From:** [PrutehiLitekyan Outreach & Public Awareness](#)  
**To:** [PrutehiLitekyan Outreach & Public Awareness](#)  
**Subject:** [Non-DoD Source] Public Comment Project J-011/J-025  
**Date:** Saturday, April 3, 2021 8:46:05 PM

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April 3, 2021

Submitted Via Email – criwebcomment@navy.mil

Naval Facilities Engineering Command Pacific

ATTN: CRI Web Comments, Code EV23

258 Makalapa Drive, Suite 100

Pearl Harbor, Hawaii 96860-3134

Re: Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)

Hafa adai:

Thank you for the opportunity to comment I am writing today to comment on the Department of Defense's (DoD) Programmatic Agreement (PA) Memo #1 regarding Projects J-011 and J-025, dated February 18, 2021. I am a concerned citizen/resident of Guam with a strong interest in preserving and protecting the indigenous CHamoru people's cultural heritage and historical properties. Guam is my home, and my interest extends to protecting their "beliefs, the culture, the language, the air, the water and the land of the CHamoru/Chamorro people.[.]" To this end, I have a strong interest in ensuring that federal actions and decisions—such as the decisions in connection with the PA Memo on Projects J-011 and J-025—do not harm or have the potential to harm Guam, its indigenous people and residents, and its cultural and natural resources.

I, Maria Hernandez, am STRONGLY AGAINST the DoD's decision in the PA Memo because the DoD (1) did not properly identify historic properties; and (2) made mistakes in determining the projects will have no historic properties affected. The PA Memo's decision is likely to lead to more destruction instead of preserving and protecting the indigenous CHamoru people's cultural resources.

1. Ancient CHamoru Village of Magua and the DoD's Damages

The indigenous CHamoru people settled in Guam, the southernmost and largest island in the Marianas archipelago, over 3,500 years ago. The CHamoru people of Guam were an organized cultural and linguistic society marked by advanced seafaring, horticulture, hunting, and fishing. By 800 A.D., CHamoru villages were characterized by unique latte structures, one-story houses resting on sizable limestone, basalt, or sandstone pillars and capstones. As indigenous Pacific Islanders, the ancient CHamoru people developed a unique culture with a legacy of historical sites throughout Guam. These prehistoric and historic sites include the Ancient CHamoru Magua Village.

The CHamoru people cared for and tended to Magua since time immemorial. For example, Antonio Artero and several CHamoru families tended to the land and raised crops and livestock. “Due to the relative isolation on the remote uninhabited northwestern coast of Guam and later within the large Artero ranch, the CHamoru heritage resources of Magua village were essentially undisturbed until the end of World War II.”

In 2018, the DoD cleared remnants of the ancient village of Magua. Human remains were recovered on the site, and ancient CHamoru medicinal tools and artifacts such as “[p]ieces of lusong, mortars, and latte stones[.]” At the time, Guam’s State Historic Preservation Office (SHPO) raised several concerns regarding the lack of proper surveying and the DoD’s failure to take into account all adverse effects on historic properties. In response to the disruption of ancient human remains and the destruction of the ancient village, PLSR organized a peaceful protest demonstration of the DoD’s bulldozing and removal of ancient CHamoru historical properties. Despite indigenous and local opposition, the DoD continued to clear and construct on the ancient village of Magua.

In 2020, the DoD disturbed and unearthed more human remains in the ancient village. The disturbances included “a nearly intact skeleton with no skull present,” two skeletons buried together, and a skeleton of a juvenile. The displacement of human remains and burials led to community outcry. PLSR and community leaders demanded the DoD to stop disturbing ancient burial grounds and to halt construction.

## 2. Comments Against the DoD’s PA MEMO

I am deeply concerned about the DoD did not properly identify historic properties located in Projects J-011 and J-025. First, the DoD fails to mention that the project is located in the ancient CHamoru Village of Magua. Next, the DoD did not make a reasonable and good faith effort in identifying historic properties by means of oral history interviews, sample field investigations, field surveys, and background research. For example, the DoD did not reach out or talk to the indigenous people whose families used to live, own, and inhabit the lands subject to be used for the Projects. I am also concerned that the DoD is not documenting the human remains that disturbed, unearthed, removed, and displaced from Magua Village. Lastly, I am concerned that the DoD awarded nearly a billion dollars to construct the projects before identifying and traditional and indigenous historic properties in Maguak Village. Therefore, the PA Memo does not preserve or protect the historic properties of the indigenous people located within the project location.

I object to further clearing at the site for the proposed marine base due to inadequate background research, the desecration of our ancient burials and the permanent destruction of our land, and invaluable resources. It is highly apparent that mitigation measures are not stopping the desecration of CHamoru burials and this is an affront to our human dignity and human rights as an indigenous people.

I am also concerned that the DoD made a mistake in determining the projects will have no historic properties affected. The DoD’s analysis is unclear. Although the PA Memo has a bibliography of materials and studies, the DoD does not make those publically available to help the public understand the basis of

its determination.

### 3. Conclusion

I urge you, the DoD, that all necessary measures be taken to halt the alleged violations and to prevent any further harms to the ancient village of Magua. The CHamoru people deserve to be recognized and to be heard, especially as the indigenous people and Guam has been a reliable and committed ally to the DoD. I respectfully request the DoD not to proceed with constructing the projects due to several federal law compliance issues, and in light of the United Nations Letter to the U.S. President and Commander-in-Chief Biden.

Si Yu'os ma'åse',

Maria Hernandez

**COMMENT # 7**

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From: Monaeka Flores  
Sent: Saturday, April 3, 2021 1:28 PM  
To: criwebcomment@navy.mil; PrutehiLitekyan Outreach & Public Awareness <litekyan.opa@gmail.com>;  
guamshpo@gmail.com;  
Subject: [Non-DoD Source] COMMENT SUBMISSION roject(s) J-011 Base Admin Communications Building and  
J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)

ATTN: CRI Web Comments, Code EV23

258 Makalapa Drive, Suite 100

Pearl Harbor, Hawaii 96860-3134

Re: Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA  
Memo # 1 (PUBLIC)

Hafa adai:

Please find below my comment for the Department of Defense's (DoD) Programmatic Agreement (PA) Memo #1 regarding Projects J-011 and J-025, dated February 18, 2021. I am a resident of Guam with a strong interest in preserving and protecting the indigenous CHamoru people's cultural heritage and historical properties. Guam is my home, and my interest extends to protecting its "beliefs, the culture, the language, the air, the water and the land of the Chamorro[.]" To this end, I have a strong interest in ensuring that federal actions and decision—such as the

decisions in connection with the PA Memo on Projects J-011 and J-025—do not harm or have the potential to harm Guam, its indigenous people and residents, and its cultural and natural resources.

I, Monaeka Flores, am STRONGLY AGAINST the DoD's decision in the PA Memo because the DoD (1) did not properly identify historic properties; and (2) made mistakes in determining the projects will have no historic properties affected. The PA Memo's decision is likely to lead to more destruction instead of preserving and protecting the indigenous CHamoru people's cultural resources.

1.

#### Ancient CHamoru Village of Magua and the DoD's Damages

The indigenous CHamoru people settled in Guam, the southernmost and largest island in the Marianas archipelago, over 3,500 years ago. The CHamoru people of Guam were an organized cultural and linguistic society marked by advanced seafaring, horticulture, hunting, and fishing. By 800 A.D., CHamoru villages were characterized by unique latte structures, one-story houses resting on sizable limestone, basalt, or sandstone pillars and capstones. As indigenous Pacific Islanders, the ancient CHamoru people developed a unique culture with a legacy of historical sites throughout Guam. These prehistoric and historic sites include the Ancient CHamoru Magua Village.

The CHamoru people cared for and tended to Magua since time immemorial. For example, Antonio Artero and several CHamoru families tended to the land and raised crops and livestock. "Due to the relative isolation on the remote uninhabited northwestern coast of Guam and later within the large Artero ranch, the CHamoru heritage resources of Magua village were essentially undisturbed until the end of World War II."

In 2018, the DoD cleared remnants of the ancient village of Magua. Human remains were recovered on the site, and ancient CHamoru medicinal tools and artifacts such as "[p]ieces of lusong, mortars, and latte stones[.]" At the time, Guam's State Historic Preservation Office (SHPO) raised several concerns regarding the lack of proper surveying and the DoD's failure to take into account all adverse effects on historic properties. In response to the disruption of ancient human remains and the destruction of the ancient village, PLSR organized a peaceful protest demonstration of the DoD's bulldozing and removal of ancient CHamoru historical properties. Despite indigenous and local opposition, the DoD continued to clear and construct on the ancient village of Magua.

In 2020, the DoD disturbed and unearthed more human remains in the ancient village. The disturbances included "a nearly intact skeleton with no skull present," two skeletons buried together, and a skeleton of a juvenile. The displacement of human remains and burials led to community outcry. PLSR and community leaders demanded the DoD to stop disturbing ancient burial grounds and to halt construction.

2.

#### Comments Against the DoD's PA MEMO

I am deeply concerned about the DoD did not properly identify historic properties located in Projects J-011 and J-025. First, the DoD fails to mention that the project is located in the ancient CHamoru Village of Magua. Next, the DoD did not make a reasonable and good faith effort in identifying historic properties by means of oral history interviews, sample field investigations, field surveys, and background research. For example, the DoD did not reach out or talk to the indigenous people whose families used to live, own, and inhabit the lands subject to be used for the Projects. I am also concerned that the DoD is not documenting the human remains that disturbed, unearthed, removed, and displaced from Magua Village. Lastly, I am concerned that the DoD awarded nearly a billion dollars to construct the projects before identifying and traditional and indigenous historic properties in Maguak Village. Therefore, the PA Memo does not preserve or protect the historic properties of the indigenous people located within the project location.

I object to further clearing at the site for the proposed marine base due to inadequate background research, the desecration of our ancient burials and the permanent destruction of our land, and invaluable resources. It is highly apparent that mitigation measures are not stopping the desecration of CHamoru burials and this is an affront to our

human dignity and human rights as an indigenous people.

I am also concerned that the DoD made a mistake in determining the projects will have no historic properties affected. The DoD's analysis is unclear. Although the PA Memo has a bibliography of materials and studies, the DoD does not make those publically available to help the public understand the basis of its determination.

3.

#### Conclusion

I urge you, the DoD, that all necessary measures be taken to halt the alleged violations and to prevent any further harms to the ancient village of Magua. The CHamoru people deserve to be recognized and to be heard, especially as the indigenous people and Guam has been a reliable and committed ally to the DoD. I respectfully request the DoD not to proceed with constructing the projects due to several federal law compliance issues, and in light of the United Nations Letter to the U.S. President and Commander-in-Chief Biden.

Si Yu'os ma'åse',

Monaeka Flores





**ATTORNEYS AT LAW**

719 Second Avenue  
Suite 1200  
Seattle, WA 98104  
T 206.395.7630  
F 206.257.0780

Cheerful Catunao  
D

Refer To File # 00010-0602

April 3, 2021

**Via Email – [criwebcomment@navy.mil](mailto:criwebcomment@navy.mil)**

Naval Facilities Engineering Command Pacific  
ATTN: CRI Web Comments, Code EV23  
258 Makalapa Drive, Suite 100  
Pearl Harbor, Hawaii 96860-3134

**Re:** Project J-011 Base Admin Communications Building and  
J-025 Medical Dental Clinic

**Project Location:** Marine Corps Base Camp Blaz, Guam

Hafa adai:

Thank you for the opportunity to comment on the Department of Defense's ("DoD") Programmatic Agreement Memo, entitled "Military Relocation To Guam and CNMI Programmatic Agreement (Pa) Memo #1," dated February 18, 2021, ("PA Memo") regarding the above-captioned projects.<sup>1</sup> On behalf of Prutehi Litekyan: Save Ritidian ("PLSR"), we respectfully submit these comments in **opposition** to the PA Memo's "Identification of Historic Properties;" and "Determination of Effect" for the reasons provided below.

**1. INTERESTS OF PRUTEHI LITEKYAN: SAVE RITIDIAN**

Established in 2017, PLSR is a community-based organization dedicated to protecting the natural and cultural resources of Guam, including those located in areas identified for U.S. military live-fire training.<sup>2</sup> PLSR's members and network (collectively referred to as "members") include the indigenous CHamoru and the residents of Guam. The ancient

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<sup>1</sup> By submitting this comment letter, PLSR does not stipulate that April 3, 2021, is the correct 45-day comment period, as is provided in the PA Memo.

<sup>2</sup> PLSR is currently a grassroots group that is in the process of becoming a non-profit.

village of Måguak (Magua) is slated to be impacted by the DoD's construction activities described in the PA Memo. PLSR members have an interest in preserving and protecting the CHamoru ancestors who are buried in the ancient village of Måguak (Magua).

PLSR and its members have a strong interest in preserving and protecting the indigenous CHamoru people's historic properties, cultural heritage, and ancestral human remains. Among others, PLSR's members comprise of Yo'āmte, fishermen, business people, college students, farmers, teachers, social workers, cultural practitioners, environmentalists, and residents of Guam with a direct interest in ensuring that federal actions and decision do not harm or have a potential to harm cultural resources and historical properties of the CHamoru people. These interests are affected by the DoD PA Memo's arbitrary determination of no adverse impacts and failure to identify historic properties.

PLSR represents its members, in addition to 25,000 petition signatories, by actively engaging in the legislative, administrative processes and has consistently demonstrated a special interest in the area of controversy. "Since its inception, PLSR has organized more than 450 different actions, including letter-writing campaigns, meetings with lawmakers, school visits, rallies, comment drives, protests, tours, press conferences, legislative roundtables, meetings with military officials, public hearings, election surveys, media interviews, podcasts, webinars, and other efforts to raise public awareness."<sup>3</sup>

Most recently, PLSR's advocacy efforts were recognized internationally. On March 31, 2021, the United Nations Human Rights Council acknowledged human rights violations by the U.S. military against the CHamoru people, as provided in PLSR's petition to United Nations.<sup>4</sup>

## **2. BACKGROUND ON ANCIENT MÅGUAK (MAGUA) VILLAGE AND PROPOSED MILITARY PROJECTS**

DoD proposes to construct Projects J-011 and J-025 in the ancient CHamoru village of Måguak (Magua), a prehistoric and historic site.<sup>5</sup> Accordingly, this section provides background information on the ancient CHamoru village of Måguak (Magua) and a brief summary of Projects J-011 & J-025.

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<sup>3</sup> See Prutehi Litekian: Save Ritidian's *Submission to Mr. Francisco Calí Tzay, Special Rapporteur on the rights of indigenous peoples, regarding ongoing human rights violations of the indigenous Chamorro people of Guam under U.S. colonization and militarization*, dated August 2020, at 20, <https://unpo.org/downloads/2694.pdf>.

<sup>4</sup> See United Nations Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes Letter, dated March 30, 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25885>.

<sup>5</sup> See PA Memo at 1.

### **A. Ancient CHamoru village of Måguak (Magua)**

The indigenous CHamoru people settled in Guam, the southernmost and largest island in the Marianas archipelago, over 3,500 years ago.<sup>6</sup> The CHamoru people of Guam were an organized cultural and linguistic society marked by advanced seafaring, horticulture, hunting, and fishing.<sup>7</sup> By 800 A.D., CHamoru villages were characterized by unique latte structures, one-story houses resting on sizable limestone, basalt, or sandstone pillars and capstones.<sup>8</sup> As indigenous Pacific Islanders, the ancient CHamoru people developed a unique culture with a legacy of historical sites throughout Guam.<sup>9</sup> These prehistoric and historic sites include the ancient CHamoru village of Måguak (Magua).<sup>10</sup>

In 1676, Spanish priests first recorded the ancient village of Måguak (Magua) on a handdrawn map.<sup>11</sup> Since that time, the CHamoru people cared for and tended to the land.<sup>12</sup> For example, Antonio Artero and several CHamoru families tended to the land and raised crops and livestock.<sup>13</sup> “Due to the relative isolation on the remote uninhabited northwestern coast of Guam and later within the large Artero ranch, the CHamoru heritage resources of Måguak (Magua) village were essentially undisturbed until the end of World War II.”<sup>14</sup>

In 2018, the DoD cleared remnants of the ancient village of Måguak (Magua).<sup>15</sup> Human remains were recovered on the site, and ancient CHamoru medicinal tools and artifacts such as “[p]ieces of lusong, mortars, and latte stones[.]”<sup>16</sup> At the time, Guam’s State Historic Preservation Office (SHPO) raised several concerns regarding the lack of proper surveying and the DoD’s failure to take into account all adverse effects on historic

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<sup>6</sup> Taboroši, D., and J. W. Jenson. “[World War II artefacts and wartime use of caves in Guam, Mariana Islands.](#)” *Capra* 4 (2002): 1-8.

<sup>7</sup> ROBERT F. ROGERS, DESTINY’S LANDFALL: A HISTORY OF GUAM 6-7, note 2 at 24 (1995). See also Doug Herman, *A Brief, 500-Year History of Guam*, SMITHSONIANMAG.COM (Aug. 15, 2017), <https://www.smithsonianmag.com/smithsonian-institution/brief-500-year-history-guam-180964508/>.

<sup>8</sup> Anthony (T.J.) F. Quan, “*Respeta I Taotao Tano*”: *The Recognition and Establishment of the SelfDetermination and Sovereign Rights of the Indigenous Chamorros of Guam under International, Federal, and Local Law*, 3 ASIAN-PAC. L. & POL’Y J. 56, 63 (2002).

<sup>9</sup> Attached is a true and correct copy of an article by Dave Lotz, *The Saga of Magua Village*, 2020, at 1.

<sup>10</sup> *Id.* at 4.

<sup>11</sup> *Id.* at 1.

<sup>12</sup> *Id.* at 2.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 4.

<sup>15</sup> Chloe Babuata, *Ancient village at military base not fully surveyed, more human remains may be undiscovered*, PACIFIC DAILY NEWS, (Nov. 27, 2018), <https://www.guampdn.com/story/news/2018/11/27/ancient-village-military-base-not-fully-surveyed-preservation-officer-says/1925172002/>.

<sup>16</sup> *Id.*

properties.<sup>17</sup> In response to the displacement of ancient human remains and the destruction of the ancient village, PLSR organized a peaceful protest demonstration against the DoD's bulldozing and removal of ancient CHamoru historical properties.<sup>18</sup> Despite indigenous and local opposition, the DoD continued to clear and construct on the ancient village of Måguak (Magua).<sup>19</sup>

In 2020, the DoD disturbed and unearthed more human remains in the ancient village.<sup>20</sup> The disturbances included "a nearly intact skeleton with no skull present," two skeletons buried together, and a skeleton of a juvenile.<sup>21</sup> The displacement of human remains and burials led to community outcry.<sup>22</sup> PLSR and community leaders demanded the DoD to stop disturbing ancient burial grounds and to halt construction.

## **B. Summary of Projects J-011 & J-025**

About a month prior to issuing the PA Memo, on January 6, 2021, NAVFAC awarded almost one billion dollars in construction contracts for work that includes Projects J-011 and J-025.<sup>23</sup> In other words, before issuing a determination of effect or identifying historic properties for public review, the military had already contracted to construct on the ancient village. The PA Memo's Project Summary describes two projects: (1) Project J-011, a proposal to build an administrative and communications building, and (2) Project J-025, a proposal to build a Medical and Dental Clinic.<sup>24</sup>

According to the PA Memo, Projects J-011 and J-025 are proposed to be constructed in the village of Måguak (Magua). In relation to one another, the PA Memo states that Project J-025 is "located south" of Project J-011.<sup>25</sup> On the contrary, the PA Memo maps show that Project J-025 is north of Project J-011, not south.<sup>26</sup> As noted above, the PA Memo fails to mention, recognize, or identify the ancient CHamoru village of Måguak

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<sup>17</sup> *Id.*

<sup>18</sup> Chloe Babuata, *Peaceful demonstration to protest military bulldozing ancient Chamoru village*, PACIFIC DAILY NEWS, (Oct. 31, 2018), <https://www.guampdn.com/story/news/2018/10/31/peaceful-demonstration-protest-military-bulldozing-ancient-village/1829904002/>.

<sup>19</sup> Anumita Kaur, *Marine base, live-fire training range halfway complete; 43 historic sites discovered*, PACIFIC DAILY NEWS, (Jul. 13, 2020), <https://www.guampdn.com/story/news/local/2020/07/12/military-buildup-guam-dededo-marine-base-training-range-near-completion/5422669002/>.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *First of nearly billion-dollar multiple award contracts announced*, THE GUAM DAILY POST (Jan. 14, 2021), [https://www.postguam.com/news/local/first-of-nearly-billion-dollar-multiple-award-contracts-announced/article\\_b454b3ac-50d6-11eb-95dd-6bdaad9d37a2.html](https://www.postguam.com/news/local/first-of-nearly-billion-dollar-multiple-award-contracts-announced/article_b454b3ac-50d6-11eb-95dd-6bdaad9d37a2.html).

<sup>24</sup> PA Memo at 1-2.

<sup>25</sup> *Id.* at 2.

<sup>26</sup> See *id.* at 6-7.

(Magua). Rather, the PA Memo characterizes the Projects Locations to occur within the “Marine Corps Base Camp Blaz.”

The PA Memo includes the DoD’s “Identification of Historic Properties” and “Determination of Effect.” Under the “Identification of Historic Properties” section, the PA Memo provides a bibliography and appears to identify historic properties that are “outside the J-011 and J-025.”<sup>27</sup> Although the PA Memo does not clearly identify the historic properties within the Projects area, the DoD reached a “Determination of Effect.”<sup>28</sup> The PA Memo’s “Determination of Effect” provides that “this project will have no historic properties affected.”

### **C. PLSR has been Denied Information On Historic Properties, and Inadvertent Discoveries of Ancestral Human Remains around the Project Area**

On March 3, 2021, the DoD failed to provide information on the disturbed and unearthed human remains in Måguak (Magua) village.<sup>29</sup> According to PLSR, on several occasions, the members of PLSR have sought information from Guam SHPO, which effectively would have received information from the DoD. Specifically, PLSR asked for information referenced in the PA Memo and information concerning the human remains that the DoD disturbed and unearthed in Måguak (Magua) Village, burial sites, and additional historical property information. But according to PLSR, the Guam SHPO has repeatedly denied the requests.<sup>30</sup>

## **3. STATUTORY AND REGULATORY BACKGROUND**

### **A. National Historic Preservation Act of 1966 and Implementing Regulations**

A stated purpose of the National Historic Preservation Act of 1966 (“NHPA”), 54 U.S.C. §§ 300101—307108., is to “foster conditions under which our modern society and our historic property can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations[.]”<sup>31</sup> The NHPA states that the Federal government’s policy is to cooperate with organizations and individuals to

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<sup>27</sup> *Id.* at 4.

<sup>28</sup> PA Memo at 5.

<sup>29</sup> Anumita Kaur, *Historic Preservation Office, military won’t share information on more burials at Camp Blaz*, PACIFIC DAILY NEWS, (Mar. 3, 2021), <https://www.guampdn.com/story/news/local/2021/03/03/preservation-office-military-wont-share-information-more-burials/6858564002/>.

<sup>30</sup> *Id.*

<sup>31</sup> 54 U.S.C. § 300101(1).

“provide leadership in the *preservation of the historic property* of the United States and of the international community of nations[.]”<sup>32</sup>

“Historic property” is statutorily defined as “any prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register, including artifacts, records, and material remains relating to the district, site, building, structure, or object.”<sup>33</sup> The terms “preservation” or “historic preservation” includes the “identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, and conservation[.]”<sup>34</sup>

The NHPA’s “Access to information” section a limited set of authorizations to withhold information from disclosure.<sup>35</sup> 54 U.S.C. § 307103(a) provides:

The head of a Federal agency, or other public official receiving grant assistance pursuant to this division, after consultation with the Secretary, shall withhold from disclosure to the public information about the location, character, or ownership of a historic property if the Secretary and the agency determine that disclosure may—

- (1) cause a significant invasion of privacy;
- (2) risk harm to the historic property; or
- (3) impede the use of a traditional religious site by practitioners.

Withholding information is a process requiring the agency to consult with the Secretary to determine whether the “information about the location, character, or ownership” of a historic property should be disclosed due to threats to privacy or historic property harm. The formal determination must “fit into one of the three subcategories of the provision.”<sup>36</sup>

Before the approval of the expenditure of any Federal funds on the “undertaking,” Section 106 of the NHPA provides that the federal agency “shall take into account the effect of the undertaking on any historic property.”<sup>37</sup> This “taking into account” process is implemented through the “Protection of Historic Properties” regulations.<sup>38</sup> The regulations provide that the federal agency must:

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<sup>32</sup> *Id.* at § 300101(2) (emphasis added).

<sup>33</sup> *Id.* at § 300308.

<sup>34</sup> *Id.* at § 300315(1).

<sup>35</sup> *Id.* at § 307103.

<sup>36</sup> *Hornbostel v. U.S. Dep’t of Interior*, 305 F. Supp. 2d 21, 32 (D.D.C. 2003), as amended (Feb. 18, 2004) (holding that the Secretary did not demonstrate that the withheld materials fit into one of the three categories of information).

<sup>37</sup> 54 U.S.C. § 306108.

<sup>38</sup> 36 C.F.R. Part 800.

- make a reasonable and good faith effort to identify historic properties, 36 C.F.R. § 800.4(b);
- determine whether identified properties are eligible for listing on the National Register based on criteria in 36 C.F.R. § 60.4;
- assess the effects of the undertaking on any eligible historic properties found, 36 C.F.R. §§ 800.4(c), 800.5, 800.9(a);
- determine whether the effect will be adverse, 36 C.F.R. §§ 800.5(c), 800.9(b); and
- avoid or mitigate any adverse effects, 36 C.F.R. §§ 800.8(e), 800.9(c).<sup>39</sup>

### **B. 2011 Programmatic Agreement**

In the alternative, the regulations allow Federal agencies to develop other “Program Alternatives” to fulfill their Section 106 compliance responsibilities, such as a Programmatic Agreement (PA).<sup>40</sup> Because the regulations state that compliance with a PA fulfills an agency’s Section 106 responsibilities, courts analyze programmatic agreements to determine whether agency action is compliant with their terms.<sup>41</sup> In this case, a PA governs the Section 106 responsibilities through the “*Programmatic Agreement (PA) among the Department of Defense, the Advisory Council on Historic Preservation, the Guam State Historic Preservation Officer, and the Commonwealth of the Northern Mariana Islands State Historic Preservation Officer Regarding the Relocation to the Islands of Guam and Tinian*,” dated March 9, 2011, (“2011 PA”).

### **C. DoD and Navy Directives on Cultural Resources Management**

The DoD and the Department of Navy (Navy) have respective directives on the maintenance and management of cultural resources.<sup>42</sup> The DoD directives impose several requirements onto “All DoD operations [and] activities,”<sup>43</sup> including surveying

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<sup>39</sup> *Wishtoyo Found. v. United States Fish & Wildlife Serv.*, CV 19-03322-CJC(ASX), 2020 WL 8409661, at \*3 (C.D. Cal. Dec. 4, 2020) (citing *Muckleshoot Indian Tribe v. U.S. Forest Serv.*, 177 F.3d 800, 805 (9th Cir. 1999)).

<sup>40</sup> 36 C.F.R. § 800.14.

<sup>41</sup> See *Dine Citizens Against Ruining Our Env’t v. Bernhardt*, 923 F.3d 831, 847 (10th Cir. 2019) (stating that the issue to resolve is whether agency violated requirements of a programmatic agreement); *Colo. River Indian Tribes v. Dep’t of Interior*, No. ED CV-1402504 JAK (SPx), 2015 WL 12661945, at \*13 (C.D. Cal. June 11, 2015) (explaining that obligations under a programmatic agreement serve as a substitute to compliance with Section 106).

<sup>42</sup> DoDI 4715.15, 2018 Cultural Resources Management, <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/471516p.pdf?ver=2017-11-21-114100-670>; SECNAV INSTRUCTION 5090.8B (Oct. 18, 2018), <https://www.secnav.navy.mil/doni/Directives/05000%20General%20Management%20Security%20and%20Safety%20Services/05-00%20General%20Admin%20and%20Management%20Support/5090.8B.pdf>.

<sup>43</sup> [DoDI 4715.16](#) at 1.



requirements and making information publically available. For example, the DoD directives require detailed inventories of cultural resources, which includes surveys in “all areas that might be adversely affected by military activities[.]”<sup>44</sup>

The DoD’s directive echoes the requirement for “Public Access to Cultural Resource Information.” For example, the DoD Directives require that the Head of the DoD Components:

f. Ensure that current information on known cultural resources is collected . . . to support informed decisions about the management of cultural resources. The Department of Defense *will ensure that this information is also available* (subject to the appropriate confidentiality and security considerations) to consulting parties, as well as residents, visitors, scholars, and the general public, to increase awareness of the significance of archaeological resources on DoD lands[.]

. . .  
q. Maintain complete and current information on cultural items . . . *including those uncovered through inadvertent discovery or intentional excavation.*<sup>45</sup>

In another example, the DoD must have a management plan that includes “Provisions for *sharing appropriate cultural resources information* with . . . nongovernmental organizations, researchers, stakeholders, and the general public[.]”<sup>46</sup> Making information available supports the Navy’s policy to “[e]ncourage effective and practical public participation in environmental decision-making that may affect public interests[.]”<sup>47</sup>

#### **4. PLSR’S COMMENTS IN OPPOSITION TO THE PA MEMO**

PLSR raises three main concerns provided in the PA Memo. First, PLSR has been deprived of public information on the findings within or around the ancient village of Måguak (Magua). Second, the DoD did not fulfill its duty to identify historic properties. Third, DoD’s determination of no adverse effects is arbitrary and capricious.

##### **A. Improper Withholding of Information**

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<sup>44</sup> *Id.* Enclosure 3 at 11-12.

<sup>45</sup> *Id.* Enclosure 2 at 8-10.

<sup>46</sup> *Id.* Enclosure 6 at 26.

<sup>47</sup> [SECNAVINST 5090.8B](#) at 3.



DoD's lack of transparency and refusal to provide the public with access to information is inconsistent with the NHPA, the 2011 PA, and the DoD and Navy directives.<sup>48</sup> The lack of information during the comment process limits public involvement and participation.

The 2011 PA requires the DoD to make information and supporting documentation available on a publicly accessible CRI website. Under Section IV.E.2. of the 2011 PA, the DoD is required to "utilize a publicly accessible Cultural Resources Information (CRI) website to make information available to the public and request the public's input regarding the identification and evaluation of historic properties within project-specific APEs for direct and indirect effects.<sup>49</sup> Specifically, the CRI website must provide "information and appropriate supporting documentation regarding DoD's identification and evaluation efforts and findings, in order to provide the public opportunities to comment."<sup>50</sup>

Here, the PA Memo relies on a list of reference materials that are not available on the CRI Website.<sup>51</sup> The documents are intended to support the PA Memo's "identification and evaluation efforts in the vicinity of, and including the APEs for the two projects[.]"<sup>52</sup> Despite PLSR's requests for the information, the DoD or the Guam SHPO has ignored making the information public, in contravene to the 2011 Agreement. As a consequence, the DoD and the Guam SHPO's withholding of information undermines public participation through the deprivation of public information.

Moreover, the DoD and the Guam SHPO's do not provide a substantive rationale or formal determination that authorizes the withholding of information relating to historic properties within or around the project site. As noted above, the NHPA limits disclosure of the information about "the location, character, or ownership of a historic property," subject to a formal determination by the Secretary and the agency.<sup>53</sup> In *Hornbostel v. U.S. Dep't of Interior*, the court observed that the NHPA could shield confidential information but only if the Secretary and the federal agency have made a formal determination about disclosing information.<sup>54</sup> There is no evidence that the DoD or the Secretary had made any formal or legal determinations to withhold the information in the

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<sup>48</sup> Under the Administrative Procedure Act, an agency action or decision may be set aside if the court finds it to be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

<sup>49</sup> 2011 PA at 9.

<sup>50</sup> *Id.*

<sup>51</sup> PA Memo at 3-5.

<sup>52</sup> *Id.* at 3.

<sup>53</sup> 54 U.S.C. § 307103(a).

<sup>54</sup> 305 F. Supp. 2d 21 (D.D.C. 2003), as amended (Feb. 18, 2004), *aff'd*, 03-5257, 2004 WL 1900562 (D.C. Cir. Aug. 25, 2004).

PA Memo, and the related inadvertent discoveries of human remains and ancestral burial grounds within the project and its the vicinity.

Lastly, the DoD is not acting in accordance with its own directives to make the information public and accessible to PLSR. The DoD directives mandate that information on known cultural resources “is also available (subject to the appropriate confidentiality and security considerations) to . . . the general public[.]”<sup>55</sup> As noted above, the information is necessary for public participation and is inappropriate to be subject to confidentiality without a formal NHPA determination. By arbitrarily withholding information, the DoD is preventing PLSR and the indigenous CHamoru people from publically participating in the comment process.

## **B. Identification of Historic Properties**

PLSR is very concerned that the DoD is not complying with its NHPA duties to make a reasonable and good-faith effort to identify historic properties and evaluate their significance by applying the National Register criteria. Under the NHPA, the DoD must “make a reasonable and good faith effort” to identify historic properties, which includes oral history interviews and field surveys.<sup>56</sup> However, DoD does not meet the NHPA standard. DoD’s efforts are unreasonable because (1) the PA Memo fails to recognize the project locations as part of the ancient CHamoru village of Måguak (Magua); (2) the DoD did not make efforts to obtain oral history from PLSR members or descendants of CHamoru ancestors; and (3) Project J-025 is not supported by and surveys.

According to the PA Memo, the Projects have “been subject to one or more of the historic property identification efforts listed in 36 CFR §800.4(b)(1), which may include . . . oral history interviews, sample field investigation and field survey[.]” However, DoD’s process inappropriately failed to incorporate the oral histories of PLSR members and descendants of CHamoru ancestors; and include surveys for Project J-025.

A reasonable and good faith effort to conduct oral history interviews for the descendants of the ancient village of Måguak (Magua) has not occurred. The PLSR members have been vocal to the local and military leadership on Guam about their heritage and their ancestry through public hearings, community meetings, virtual webinars, and social media posts.<sup>57</sup> The PLSR members have organized protests and worked to stop the military construction on their ancestral burial grounds at the local legislative level. For example, on July 13, 2020, Maria Hernandez, PLSR Core Member and descendant of

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<sup>55</sup> See [DoDI 4715.16](#) at 8-10.

<sup>56</sup> See 36 C.F.R. § 800.4(b).

<sup>57</sup> PLSR FaceBook Post re Magua Village (Oct. 31, 2018), <https://www.facebook.com/saveritidian/posts/929754577221234>; See also Magua Village Summary Report (Oct. 31, 2018), <https://www.facebook.com/saveritidian/photos/pcb.929754577221234/929754500554575/>.

CHamoru ancestors, shared her family's story as former landowners of lands now impacted by the military, and the CHamoru peoples' intimate knowledge of the land and ancestral villages during Guam Legislative virtual testimony on the Joint Informational Hearing on Måguak (Magua).<sup>58</sup> As noted above, the members of PLSR have an interest in preserving and protecting the ancient CHamorus who are buried in the land proposed for the projects.<sup>59</sup> PLSR members have not been consulted nor interviewed by the DoD. Until the DoD properly identifies the proper name of project locations, i.e., the village of Måguak (Magua), and engages in identifying and preserving the oral histories of the PLSR members, among others, the DoD did not make a reasonable and good effort in complying with its NHPA duties.

Next, the DoD surveys for Project J-025 do not appear to complete.<sup>60</sup> Although the PA Memo states that the DoD conducted identification and evaluation surveys, the survey results in the "2011 Military Relocation Programmatic Agreement (PA) Appendix E Table 2," dated Sept. 30, 2020, suggest otherwise. For Project J-025, the DoD states that the survey reference material is "N/A."<sup>61</sup>

Furthermore, PLSR raises the issue that the DoD's relies on the information of properties outside the project area to identify properties within Projects J-011 and J-025. Here, the PA Memo's section on the "identification of historic properties" identifies several historic properties that are "outside the J-011 and J-025 APE."<sup>62</sup> The PA Memo is unclear whether the DoD did in fact identify any historic properties within the Project areas subject to this PA Memo.<sup>63</sup> Rather, the PA Memo suggests that "identification efforts" can be found in "original studies" that are referenced in a bibliography of reference materials.<sup>64</sup> The referenced materials are not publicly available for review. Accordingly, DoD fails to make a reasonable effort to properly identify historic properties.

### **C. Determination of No Effect**

The DoD's conclusion that the project "will have no historic properties affected" is arbitrary and capricious. The PA Memo states that "J-011 and J-025 construction activities that may have an adverse effect on historic properties[.]"<sup>65</sup> An adverse effect results when "an undertaking may alter, directly or indirectly, any of the characteristics of

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<sup>58</sup> PLSR, *Learn about the decades-long fight for the return of Ritidian*, FACEBOOK (July 13, 2020) , <https://fb.watch/4B2tRJD4wQ/>.

<sup>59</sup> *Id.*

<sup>60</sup> Appendix E Table 2 at 8.

<sup>61</sup> *Id.*

<sup>62</sup> PA Memo at 5.

<sup>63</sup> *Id.* at 5.

<sup>64</sup> *Id.* at 3-4.

<sup>65</sup> *Id.* at 1.

a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.”<sup>66</sup>

Without any substantive explanation, the PA Memo merely concludes that historic properties within the Project locations will not be affected because the “sites were previously mitigated through a separate project.”<sup>67</sup> However, relying on a “separate” project mitigation measure to determine the effects on historic properties in Projects J-011 and J-025 is not rationally or factually supported. The DoD's determination overlooks its duties and responsibilities under the NHPA, the 2011 PA, and the DoD and Navy directives in determining the effects.

## 5. CONCLUSION

For the reasons stated above, we submit these comments opposing the PA Memo's identification of historic information and determination of no effects. Accordingly, PLSR respectfully requests that DoD:

- Not to proceed with construction provided in the current proposals due to several compliance issues, and in light of the United Nations Letter to the U.S. President and Commander-in-Chief Biden.<sup>68</sup>
- Provide all information on the historic properties in Projects J-011 and J-025;
- Revise the PA Memo's findings and determinations in compliance with the NHPA, and its implementing regulations; and
- Re-evaluate its mitigation efforts, re-characterize the site, survey Project J-025, re-identify the historical significance, and complete oral history research in coordination with PLSR.

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<sup>66</sup> 36 C.F.R. § 800.5(a)(1).

<sup>67</sup> *Id.* at 5.

<sup>68</sup> The United Nations letter to U.S. President Biden requests: “While awaiting a reply, **we urge that all necessary interim measures be taken to halt the alleged violations** and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations,” (emphasis added), available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25885>.

Sincerely,

A handwritten signature in blue ink that reads "Cheerful Catunao". The script is cursive and fluid, with the first name "Cheerful" and last name "Catunao" clearly distinguishable.

Cheerful Catunao  
Nossaman LLP

CC:nve

Attachment: DAVE LOTZ, *The Saga of Magua Village* (2020).

## **The Saga of Magua Village**

June 25, 2020

Dave Lotz

Back in October of 2018, the discovery was made of the intentional destruction of Magua Village with the clearing for the Finegayan Cantonment for Marine Base Blaz at the current Naval Computer and Telecommunications Station (NCTS) Guam as a major component for the military buildup of the island. A review of this destruction of this significant feature of the CHamoru heritage of the Mariana Islands is important to learn how the military treats the cultural resources of the Mariana Islands, the applicability of the National Historic Preservation Act of 1966, and the functions of the Guam Historic Preservation Officer.

### **Interior Upland CHamoru Habitation Sites in the Mariana Islands**

The ancestors of the CHamorus of the islands settled centuries ago and developed a unique cultural that has left a legacy of habitation sites on most of the fifteen islands of the archipelago with most of the sites on the larger five southern islands. The focus of these sites is relative to sources of water and food both from the sea and land. A significant number of current sites are in coastal locations while numerous are known to be in interior locations primarily near permanent streams primarily in southern Guam in the Almagosa and Mepo areas.

Several CHamoru village sites have known to be located on the uplifted limestone plateaus of the southern islands. Unfortunately most no longer exist due to colonial programs of clearing for agriculture and military uses. Still in existence on Rota are Gampapa and Dugi, each with only a collection of only a few latte sets within the prior sugar cane plantations of the Japanese in the early 1900s, but devoid of the broader cultural landscape.

A mention of Magua is made on a 1676 map of Guahan by Father Alonso of the villages of Mahgua and Finahaguoyig along with the Spanish mission or chapel at nearby Ritidian. The Spanish conquest of the Mariana Islands in the 1600s and the later resultant *reduccion*, the destruction of the CHamoru population and concentration in only a few villages on Guam, left only a CHamoru village at Inapsan in northern Guam.



1676 map with Mahgua in the center

A considerably number of years later in the early 1900s, with Guam now under the rule of the United States Navy, Magua became the property of the Pascual Artero and by the 1940s the ranch of his son, Antonio Artero. By this time there was a scattering of CHamoru ranches, *lancho*, in northern Guam. The Arteros utilized the large land holding in the area of Magua, usually referred to as Pigua, for the raising of crops and cattle along with the harvesting of lumber as there was a sawmill on the property.





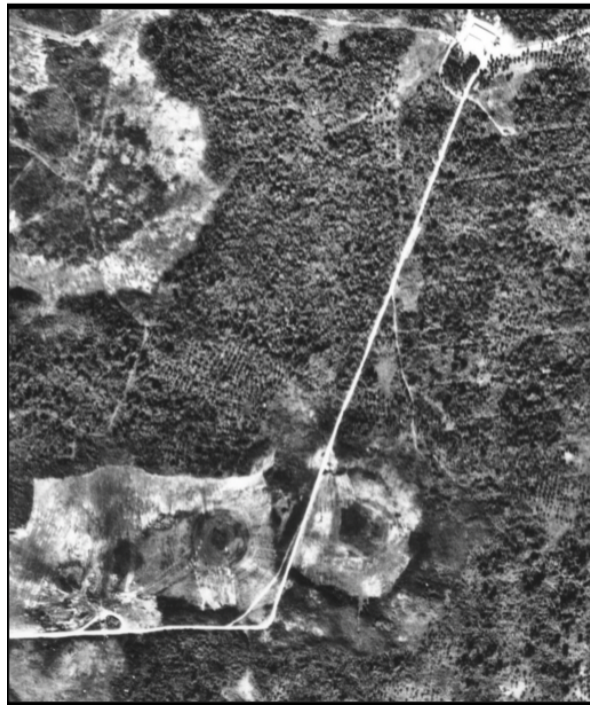
1944 map of Magua area

With the United States returning to Guam in July 1944 to seize the island from the Japanese, the Artero property at Pigua was confiscated to become a naval communications site, initially designated Naval Communications Station Guam and more recently U.S. Naval Computer and Telecommunications Station Guam. The initial radio facilities were located on the southern portion of the property on the plateau of Hilaan, labeled South Finegayan, and later moved north to the current location of Pigua in the 1950s. One of the primary naval uses of the location, now



labeled North Finegayan, starting in December 1944 was the Naval Security Group and continued until 1999. Most notable of their facilities at this location was the circular antenna array AN/FRD-10, Wullenweber, nicknamed the Elephant Cage.

Due to the relative isolation on the remote uninhabited northwestern coast of Guam and later within the large Artero ranch, the CHamoru heritage resources of Magua village were essentially undisturbed until the end of World War II. Of interest is that the CHamoru place name of Magua continued to be utilized at the correct location in a series of American maps. The establishment of U.S. Naval communication facilities certainly destroyed components of Magua, but the extent of destruction is unknown as there was no legal mandate to preserve and document until the passage of the National Historic Preservation Act of 1966 and even the laws impact was not known by the military on Guam for a period of time until the creation of the Guam State Historic Preservation Officer (SHPO) in the early 1970s. Much of Magua remained until the recent destruction for Marine Base Blaz and the required review under the NHPA resulted in identification of the vast cultural landscape of Magua that was subsequently destroyed.



1949 aerial photo with Magua in the center

For comparison, at the former naval housing area at South Finegayan there exists the South Finegayan Latte Stone Park comprised of one latte set. This is all that remains of certainly a similar CHamoru cultural landscape that was destroyed in the initial construction of the naval communication station in the 1940s and of the navy housing in the 1970s. An archaeological

reconnaissance report from 1972 noted adjacent occupation areas that had been disturbed by prior military construction and later clearing for the housing area.

While initially the latte were preserved in a small park, with the abandonment of the housing area by the Navy, the park has not been maintained.



Reconstructed from bottom aerial view.



NSG Guam Operations area comparison. Top 1950's - Bottom 1960's





South Finegayan latte site in 2019

Magua area is north of the DF antenna in the top photo and left of the road to the Wullenweber, just prior the road angling to the left.

### **U.S. Military Buildup of Guam**

While Guam has been a location for the armed forces of the United States since acquiring the island from Spain in 1898 and especially since 1944 during World War II and into the Cold War, recent posturing in the Western Pacific by the United States has focused on increasing their military presence on the island. In 2002 the United States began discussions, policy changes, and implementation of the repositioning of U.S. forces to counter potential foes in this region of the world. In addition, there was expressed long term opposition to the U.S. military in Okinawa, a prefecture of Japan. As a result the reduction of U.S. Marine Corps personnel on Okinawa and their relocation to Guam was conceived that has resulted in the plans for a cantonment at NCTS, an aviation unit at Andersen Air Force Base, and training areas on the island, in addition to proposed training on the island of Tinian. Thus, after the U.S Marine Corps left Guam in 1998, their return commenced with the full implementation of the marines presence on Guam by 2024.

### **NEPA and NHPA**

Under United States federal law, notably the National Historic Preservation Act of 1966 (NHPA) and the National Environmental Policy Act of 1969 (NEPA), federal agencies, which includes the Department of Defense, are required to evaluate the impacts on natural and cultural resources in making decisions. Both acts require public review and input. Without these laws of the United States, military construction of Guam would be done without the public's knowledge of the projects' scopes and impacts to the islands cultural and natural heritage.

The NEPA review for the military buildup of the primary components culminated in the *2010 Final Environment Impact Statement Guam and CNMI Military Relocation*. Focusing on the remnants of Magua Village, the cultural resources chapter summary simply listed it as site number 66-08-2304 with a habitation site/artifact scatter with the environmental consequences of the construction of the cantonment as "may adversely affect historic properties". The report missed several features and incredibly did not mention the natural sump with a grove of bamboo as a water source by failing to take a broader perspective of the cultural landscape where the sump served as a fresh water source for the inhabitants.

The review under the NHPA resulted in the *July 2010 Final Report Archaeological Surveys and Cultural Resources Studies Conducted in 2007 on the Island of Guam in Support of the Joint Guam Build-up Environmental Impact Statement*. This report stated that site 66-08-2303 is described as containing latte elements (haligi and tasa) and mortars and pestles (lusong and lommok) possible middens and portable artifacts at a habitation site surrounded by landforms conducive to cultivation and by quarried rock outcrops. There is evidence of disturbance with the prior moving of latte components, probably in the 1950s. No statement of Magua Village and its significance. 66-08-2303 was made relative to a determination of eligibility for the National Register of Historic Places (NRHP).

NHPA requires a review process termed the Section 106 review. For the military buildup this document evolved into the 2011 Programmatic Agreement (PA). Magua is not even mentioned by name in the PA. Rather, a statement is given that Project J-001B (Naval Base Guam Telecommunication Site Finegayan Utilities and Site improvements) will have "adverse effects on historic properties" without stating those effects. The PA was signed by the Guam SHPO on March 9, 2011. The Guam SHPO is mandated to preserve Guam's cultural resources and represent the people of Guam, but by signing the PA, the Guam SHPO effectively sanctioned the destruction of Magua village.

The PA does specify that Navy will survey, evaluate, and curate archaeological resources known and later discovered in the course of development of the base in consultation primarily with the Guam SHPO and in a more limited basis other parties that are signatures to the PA. Other PA requirements are for the production of public information booklets, a public access program,

nominations to the NRHP, funding for a Guam Cultural Repository, and an annual meeting to discuss the PA.

The map of the footprint of the cantonment clearly shows sufficient space at NCTS to amend the footprint for the project in avoid or minimize the destruction of Magua. However, this alternative to avoid destruction of Magua Village was apparently not discussed or documented in the NEPA and NHPA documents. Furthermore, no maps were ever provided for public review of the cultural resources in relation to the site development even though this was done for other resources.

The PA is supplemented by a require PA Memo #1 of August 22, 2014 that states “Historic Property 3 is a large previously bulldozed pre-Contact habitation site and artifact scatter” with no explanation that this site is Magua Village.

PA Memo #1 were an attempt to satisfy Section 800.2 (c)(5)(d) of the Advisory Council on Historic Regulations under NHPA for public involvement since “The views of the public are essential to inform Federal decisionmaking on the section 106 process” and “The agency official shall seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties...”. However the PA Memo process keeps the public distant from and prevents a meaningful serious discussion of historic preservation issues between the public and the Navy and Guam SHPO.

Furthermore, the Navy has relied on the Archaeological Resources Protection Act (ARPA) of 1979 and NHPA from revealing the location, resources, and significance of Magua, by stating in the PA Memo #1 of August 22, 2014, that ARPA and NHPA “prohibit federal agencies from publically disclosing the exact nature and location of archaeological sites and other types of historic properties such as traditional cultural properties (TCPs).” These cited laws are discretionary, but are being misused as a mandate and not an authorization, by the Navy to prevent the people of Guam from being aware of their cultural heritage sites being destroyed and incredibly from the CHamoru people of Guam from even knowing their own TCPs.

Regarding ARPA, in 16 U.S.C. 470hh, confidentiality of information states “may not be made available to the public,,,” which is not mandatory, but discretionary by a federal agency. In regards to NHPA, 543 U.S.C. 307103(a)(2) provides the authority for a Federal agency to withhold from disclosure to the public information about the location, character, or ownership of a historic property, if the Secretary (of Interior) and the agency determine that disclosure may risk harm to the historic property. This is not mandatory, but discretionary and requires that a legally established procedure be followed. No information has been provided by the Navy of seeking or obtaining the required authorization to withhold site information.

## Destruction

With the Navy determining that the legal requirements have been fulfilled, construction began in 2018 of Project J-001B (Naval Base Guam Telecommunication Site Finegayan Utilities and Site improvements) with the contract awarded to Granite Construction Joint Venture consisting of Granite, of California, and Obayashi Corporation, of Japan, for \$165 million.



J-001B footprint with the core of Magua Village identified as “Previously Recorded Archaeology Site”.



Clearing of J-002B as of April 30, 2019

When clearing had begun the extent of the clearing and destruction of Magua was discovered and extensively covered by the Guam media beginning in late October 2018. Concurrently the Guam SHPO became noticeably involved in monitoring the destruction. New discoveries of cultural resources (labeled ‘inadvertent’), not previously documented in the 2010 report were made that included burials, latte, and pottery scatters. The Navy had removed for preservation lusong and latte stones to a site one mile to the south near the current entrance to NCTS.



Magua before clearing October 12, 2017



Magua site October 28, 2018

The Navy had further implemented data recovery in the extensive area being cleared that consisted of following work plans, archival research, mapping, shovel test pits, excavation and backhoe excavations, recordation, and removal of identified artifacts for later evaluation and storage. Eventually the recovered artifacts are to be cataloged and stored in bags and boxes for long term storage at the, to be constructed, Guam Cultural Repository at the University of Guam funded by the military buildup. The work plan and field work has been subject to Guam SHPO review, but no public involvement.



The massive clearing for the base sparing neither cultural or natural resources as apparently there was no consideration of working with the natural and cultural landscape to preserve or to be “green’ or ‘sustainable”, for the Marine Corps Blaz.

Thus the landscape of Magua Village has been completely destroyed for the establishment of Marine Base Blaz.

### **Subsequent Actions**

The Guam Preservation Trust has engaged with the Navy in an attempt to memorialize, preserve, display, and interpret the salvaged artifacts from Magua Village. To date, no commitment has been made by the Navy.

According to the PA, annual PA workshops have been held on Guam. However attendance is limiting to those parties who have signed the PA. Those signatures would be as a “Concurring Party” with the obvious implication that the signatures agree with the document.

Regarding the additional requirement for the Navy to perform under the PA: Booklets have been produced by the Navy with distribution limited to the annual PA meetings and to the Guam SHPO office, but not for Magua Village.

The public access program was only implemented five years after the signature of the PA in 2011 and is considered a failure with minimal individuals using the program for access primarily due to the excessive bureaucracy requirements and uncertainty of actually having access. Large groups, such as Guam Boonie Stompers, are unable to participate because of the restrictions on numbers of participants and the requirement for all participants to travel to the Visitor Control Center at Naval Base Guam, which is only open during the week and not on weekends and evenings, in advance to register.

Nominations have begun to the NRHP of a few latte sites in the Naval Magazine and of isolated CHamoru habitation features at Andersen Air Force Base, but these are not of broad cultural landscapes. One nomination is of an inconsequential artifact, the conference table in which President Johnson met with South Vietnam leaders on Guam in 1967 during the Vietnam War at the then Commander Naval Forces Marianas Headquarters at Nimitz Hill. The nomination of the Torres Farmstead at Andersen Air Force Base has merit to preserve the remnants of an early

1900s CHamoru *lancho*. The nomination of the Tarague Well #4 is worthy from the perspective of northern Guam water resource development on land seized by the military.

The Guam Cultural Repository has been funded and a site designated at the University of Guam, but no construction has taken place as of early 2020. However, Guam acceptance of the Repository has sent the wrong message to the military that it is acceptable to destroy CHamoru cultural sites as long as the recovered artifacts are sent in bags and boxes to the Repository. Residents and the people of Guam will probably not visit the Repository, but do visit preserved latte sites as witnessed to the visitation to Pagat, the Valley of the Latte, and the Guam National Wildlife Refuge at Ritidan Point.

The annual PA meetings do take place with the limited participation as described.

### **Navy Myths About Magua**

When the media and the public began to ask questions about the destruction of Magua Village, the Navy resorted to inaccurate and deceiving information about the site. With the initial moving of latte in the 1950s, still within Magua itself, the Navy attempted to portray the site as largely destroyed. The Navy further stated Magua was not a village, but only a habitation site without providing any rationale. They further attempted to state that Magua was not permanently inhabited as if that diminished the significance of the site. Interestingly enough, a review of professional archaeological literature regarding Guam provides a meteorology perspective that there was more rainfall 500 years ago as compared to today which destroys the credibility of such a non-permanent settlement based upon seasonal rains. The Navy did not answer inquiries as to who, why, and how they decided to destroy Magua Village when the cantonment could easily have been redesigned to preserve Magua.

The Navy is so quick to provide an abundance of reports while ignoring the basic premise of historic preservation under the NHPA which is to just preserve historic sites. After all, once destroyed, Magua village cannot be reestablished. Finally, the Navy is so inclined to hide behind the PA and cite the Guam SHPO for what they are doing, but of course the Navy has been the lead in this all along, not the Guam SHPO.

### **Guam SHPO Responsibilities**

During the military buildup the Guam SHPO has been facing unprecedented challenges. Unfortunately the Governors under the buildup have been outspoken in favor of the buildup while seeming less supportive and lacking an understanding of cultural and historic preservation and the Section 106 process which is, or should be, the essence to insuring preservation under

NHPA. During the Calvo administration, the senior advisor to the governor, an attorney not functioning as an attorney and not having Section 106 background, took the lead in the PA formulation so the document was guided by political viewpoints and not preservation.

However, the Guam SHPO has several systemic problems that have become institutionalized over the years. There is a lack of applying the legal mandate contained in 21 GCA 76101 that declares "...to be the public policy and in the public interest of this territory to engage in a comprehensive program of historic preservation..." and goes on to further elaborate in the law on this policy statement. However Guam law cannot be viewed to support a program of sanctioned destruction of cultural resources which is too often the end result of the office's reviews as long as some semblance of archaeological efforts are made. While a case conceivably be made that information is obtained from salvage archaeology, the Guam SHPO has not had for decades any program of public education to the people of Guam that would somehow benefit from any knowledge acquired from reports in the Guam SHPO office.

The Guam SHPO would actually reduce their laborious work load by just insisting on preservation in place instead of archaeology destruction under a semblance of work plans. Reviews of work plans and field inspections by the Guam SHPO generate a time consuming work load.

Concurrently, there is noticeably a lack of any attempt for the office to engage the public to solicit any meaningful public input to strengthen their role in preserving the island's cultural heritage. This is probably driven by the office's portrayal that they are the owner of the culture resources as compared to being a steward with a public trust responsibility.

During this time of the military buildup, it became evident that not only the SHPO, but primarily executive leadership, had no concept on how to strategize and utilize posturing and tactics to deal with the U.S. military and lacked the leadership to seize the initiative, but in fact clearly played a subservient role deferring to the US military. A prime example of this is during the Camacho administration, the governor's office offered the Pagat site, an extensive CHamoru archaeological site listed on the NHRP, for the location of the live fire range. This proposal eventually resulted in a significant public outcry toward the military, with the then administration noticeably absent.

The Guam SHPO also appears to be too eager to accommodate the military while focusing on minute details while ignoring the broader preservation issues, such as preserving cultural landscapes.

## **Conclusions**

The denial of information on Magua Village for public review in effect prevented meaningful public information, involvement, comments, and critique that could have made project changes to preserve the site. Consider that the site is within a military installation with restricted access and no visible evidence of the site from the on-base road, there is no justification for restricting information of the site, especially when solicitation of comments under a public review process. However the public review process was so designed by the Navy to prevent meaningful input, evaluation and discussion as the public had no assurances that the Navy would engage their concerns.

The Magua controversy reveals a fundamental difference between the US military and the people of Guam. The military as the legal property owner, only because of seizing the land under clouded legalities, takes the position that it is the military's decision of treatment of the cultural resources. The people of Guam feel that these cultural resources belong to them and that someday, when the military no longer needs Guam, they will be restored to their rightful possession.

In conclusion, with proper planning and communication seriously with the public especially history preservation advocates, Magua Village could of and should have been preserved and had the potential to demonstrate a Navy commitment to preserving and restoring a unique element of Guam's heritage, an upland interior latte period habitation site.

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Dave Lotz has extensive experience in managing cultural resources on Guam primarily with 15 years as Assistant Parks Administrator and Parks Administrator with the Department of Parks and Recreation, 5 years as Conservation Resources Chief at Andersen Air Force Base, and 4 years as Cultural Resources Program Manager with the War in the Pacific National Historical Park on Guam and American Memorial Park on Saipan. He initiated Guam's participation in the historic preservation program in 1974. He has served for over 8 years on the Guam Review Board for Historic Preservation and the Board for the Guam Preservation Trust. He has degrees in park management from Colorado State University and Michigan State University and has participated in numerous seminars on the Section 106 process and given presentations to the Marianas History Conference and Pacific History Conference.

**From:**

**To:** [criwebcomment@navy.mil](mailto:criwebcomment@navy.mil); [patrick.lujan@dpr.guam.gov](mailto:patrick.lujan@dpr.guam.gov); [LCDR USN JRM](#); [USN NAVFACMAR](#); [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com); [senatorjoessanagustin@gmail.com](mailto:senatorjoessanagustin@gmail.com); [senatortcnelson@gmail.com](mailto:senatortcnelson@gmail.com)

**Cc:** [litekvan.opa@gmail.com](mailto:litekvan.opa@gmail.com)

**Subject:** [Non-DoD Source] Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)

**Date:** Sunday, April 4, 2021 9:58:28 AM

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*Hafa adai:*

Thank you for the opportunity to comment on the Department of Defense's (DoD) Programmatic Agreement (PA) Memo #1 regarding Projects J-011 and J-025, dated February 18, 2021. I am a resident of Guam with a strong interest in preserving and protecting the indigenous CHamoru people's cultural heritage and historical properties. Guam is my home, and my interest extends to protecting its "beliefs, the culture, the language, the air, the water and the land of the Chamorro[.]"<sup>[1]</sup> To this end, I have a strong interest in ensuring that federal actions and decision—such as the decisions in connection with the PA Memo on Projects J-011 and J-025—do not harm or have the potential to harm Guam, its indigenous people and residents, and its cultural and natural resources.

I, Sophia Alvarado, am **STRONGLY AGAINST** the DoD's decision in the PA Memo because the DoD (1) did not properly identify historic properties; and (2) made mistakes in determining the projects will have no historic properties affected. The PA Memo's decision is likely to lead to more destruction instead of preserving and protecting the indigenous CHamoru people's cultural resources.

### Ancient CHamoru Village of Magua and the DoD's Damages

The indigenous CHamoru people settled in Guam, the southernmost and largest island in the Marianas archipelago, over 3,500 years ago. The CHamoru people of Guam were an organized cultural and linguistic society marked by advanced seafaring, horticulture, hunting, and fishing. By 800 A.D., CHamoru villages were characterized by unique latte structures, one-story houses resting on sizable limestone, basalt, or sandstone pillars and capstones. As indigenous Pacific Islanders, the ancient CHamoru people developed a unique culture with a legacy of historical sites throughout Guam. These prehistoric and historic sites include the Ancient CHamoru Magua Village.

The CHamoru people cared for and tended to Magua since time immemorial. For example, Antonio Artero and several CHamoru families tended to the land and raised crops and livestock. "Due to the relative isolation on the remote uninhabited northwestern coast of Guam and later within the large Artero ranch, the CHamoru heritage resources of Magua village were essentially undisturbed until the end of World War II."

In 2018, the DoD cleared remnants of the ancient village of Magua.<sup>[2]</sup> Human remains were recovered on the site, and ancient CHamoru medicinal tools and artifacts such as "[p]ieces of lusong, mortars, and latte stones[.]"<sup>[3]</sup> At the time, Guam's State Historic Preservation Office (SHPO) raised several concerns regarding the lack of proper surveying and the DoD's failure to take into account all adverse effects on historic properties.<sup>[4]</sup> In response to the disruption of ancient human remains and the destruction of the ancient village, PLSR organized a peaceful protest demonstration of the DoD's bulldozing and removal of ancient CHamoru historical properties.<sup>[5]</sup> Despite indigenous and local opposition, the DoD continued to clear and

<sup>[6]</sup>

construct on the ancient village of Magua.

In 2020, the DoD disturbed and unearthed more human remains in the ancient village.<sup>[7]</sup> The disturbances included “a nearly intact skeleton with no skull present,” two skeletons buried together, and a skeleton of a juvenile.<sup>[8]</sup> The displacement of human remains and burials led to community outcry.<sup>[9]</sup> PLSR and community leaders demanded the DoD to stop disturbing ancient burial grounds and to halt construction.

### **Comments Against the DoD’s PA MEMO**

I am deeply concerned about the DoD did not properly identify historic properties located in Projects J-011 and J-025. First, the DoD fails to mention that the project is located in the ancient CHamoru Village of Magua. Next, the DoD did not make a reasonable and good faith effort in identifying historic properties by means of oral history interviews, sample field investigations, field surveys, and background research. For example, the DoD did not reach out or talk to the indigenous people whose families used to live, own, and inhabit the lands subject to be used for the Projects. I am also concerned that the DoD is not documenting the human remains that disturbed, unearthed, removed, and displaced from Magua Village. Lastly, I am concerned that the DoD awarded nearly a billion dollars to construct the projects before identifying and traditional and indigenous historic properties in Maguak

Village.<sup>[10]</sup> Therefore, the PA Memo does not preserve or protect the historic properties of the indigenous people located within the project location.

I object to further clearing at the site for the proposed marine base due to inadequate background research, the desecration of our ancient burials and the permanent destruction of our land, and invaluable resources. It is highly apparent that mitigation measures are not stopping the desecration of CHamoru burials and this is an affront to our human dignity and human rights as an indigenous people.

I am also concerned that the DoD made a mistake in determining the projects will have no historic properties affected. The DoD’s analysis is unclear. Although the PA Memo has a bibliography of materials and studies, the DoD does not make those publically available to help the public understand the basis of its determination.

### **Conclusion**

I urge you, the DoD, that all necessary measures be taken to halt the alleged violations and to prevent any further harms to the ancient village of Magua. The CHamoru people deserve to be recognized and to be heard, especially as the indigenous people and Guam has been a reliable and committed ally to the DoD.<sup>[11]</sup> I respectfully request the DoD not to proceed with constructing the projects due to several federal law compliance issues, and in light of the United Nations Letter to the U.S. President and Commander-in-Chief Biden.<sup>[12]</sup>

*Si Yu'os ma'āse',*



**From:** Koohan Paik-Mander  
**Sent:** Sunday, April 4, 2021 3:31 AM  
**To:** criwebcomment@navy.mil  
**Cc:** litekyan.opa@gmail.com; NAVFACMAR  
**Subject:** [Non-DoD Source] Human burials at Maguak Village

I have been horrified for a decade, witnessing the juggernaut of military destruction DESTROY the land, rare ecosystems and culture of the Chamoru people on Guam, arguably the most patriotic, pro-U.S. people on the planet -- and all in the name of "security."

Now, we even have the Special Rapporteurs at the United Nations denouncing these human-rights violations. Everywhere, people recognize that the metamorphosis of Guam's most sacred area -- Ritidian (Litekyan) -- into a military installation is immoral, unjust and ecocidal, at a time when all natural life-sustaining systems on Earth are unravelling. We are face to face with the real prospect of extinction, and the worldview paradigm of warring superpowers is an obsolete one which will bring us all down.

Solutions to security threats lie in diplomacy. Not in preparation for war. Not in building infrastructures that destroy ancient carbon sequestering limestone forests. Not in shooting 6.7 million bullets over the most important aquifer in Micronesia. And not in bulldozing the remains of Chamoru ancestors. Security is simple. It means put down your guns and begin diplomacy with China.

Insecurity -- not security -- has come from the clearing of these burial sites. These actions are making the world, the Pacific and especially Guam, a lot more unstable,

When future generations look back on this scourge, the U.S.'s high-handed arrogance will fall squarely on the wrong side of history. This is certain.

Cease and desist.

Koohan Paik-Mander

## COMMENT # 11

**From:****To:** [criwebcomment@navy.mil](mailto:criwebcomment@navy.mil); [LCDR USN JRM](#); [USN NAVFACMAR](#)**Subject:** [Non-DoD Source] Project(s) J-011 Base Admin Communications Building and J-025 Medical Dental Clinic; J-011 and J-025 PA Memo # 1 (PUBLIC)**Date:** Sunday, April 4, 2021 1:09:31 AM

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Håfa adai

Thank you for the opportunity to comment on the Department of Defense's (DoD) Programmatic Agreement (PA) Memo #1 regarding Projects J-011 and J-025, dated February 18, 2021. I am a resident of Guam with a strong interest in preserving and protecting the indigenous Chamorro people's cultural heritage and historical properties. Guam is my home, and my interest extends to protecting its beliefs, the culture, the language, the air, the water and the land. To this end, I have a strong interest in ensuring that federal actions and decisions—such as the decisions connected to the PA Memo on Projects J-011 and J-025—do not harm or have the potential to harm Guam, its indigenous people and residents, and its cultural and natural resources.

I, Teresita L. Perez, am STRONGLY AGAINST the DoD's decision in the PA Memo because the DoD (1) did not properly identify historic properties; and (2) made mistakes in determining the projects will have no historic properties affected. The PA Memo's decision is likely to lead to more destruction instead of preserving and protecting the indigenous CHamoru people's cultural resources.

I am deeply concerned that the DoD did not properly identify historic properties located in Projects J-011 and J-025. First, the DoD failed to mention that the project is located in the ancient CHamoru Village of Magua. Next, the DoD did not make a reasonable and good faith effort to identify historic properties by means of oral history interviews, sample field investigations, field surveys, and background research. For example, the DoD did not reach out or talk to the indigenous people whose families used to live, own, and inhabit the lands subject to be used for the Projects. I am also concerned that the DoD is not documenting the human remains that disturbed, unearthed, removed, and displaced from Magua Village. Lastly, I am concerned that the DoD awarded nearly a billion dollars to construct the projects before identifying and traditional and indigenous historic properties in Magua Village. Therefore, the PA Memo does not preserve or protect the historic properties of the indigenous people located within the project location.

I object to further clearing at the site for the proposed marine base due to inadequate background research, the desecration of our ancient burials and the permanent destruction of our land, and invaluable resources. It is highly apparent that mitigation measures are not stopping the desecration of CHamoru burials and this is an affront to our human dignity and human rights as an indigenous people.

I am also concerned that the DoD made a mistake in determining the projects will have no historic properties affected. The DoD's analysis is unclear. Although the PA Memo has a bibliography of materials and studies, the DoD does not make those publically available to help the public understand the basis of its determination.

I urge you, the DoD, that all necessary measures be taken to halt the alleged violations and to prevent any further harms to the ancient village of Magua. The Chamorro people deserve to be recognized and to be heard, especially as the indigenous people and Guam has been a reliable and committed ally to the DoD. I respectfully request the DoD not to proceed with constructing the projects due to several federal law compliance issues, and in light of the

United Nations Letter to the U.S. President and Commander-in-Chief Biden.

Si Yu'os ma'āse'

Teresita L. Perez

## COMMENT # 12

**From:** [Pedro Blas](#)  
**To:** [CRIWebComment](#)  
**Subject:** [Non-DoD Source] J-011/J-025 PA Memo #1 comment  
**Date:** Saturday, April 17, 2021 2:13:51 AM

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Project: J-011 Base Admin and Communications Building and J-025 Medical Dental Clinic  
Subject: PA Memo #1

Date: 17, April 2021  
Name: Pedro Blas

As already acknowledge in the PA Memo for J-011 and J-025, any further construction of these projects in Finegayan, only for the benefit of those anticipated for cantonment at Marine Base Camp Blaz, will lead to unfavorable effects to the cultural history of those who call Guahån home outside of the fence. Since the release of this memo, we have become aware of the numerous ancient burial grounds that have been discovered within the Area of Finegayan. I am writing this comment with concern for any more disruptions of our buried ancestors and how we will be compensated for such contempt for our cultural beliefs regarding the ancestral remains that have been found.

The location of projects J-011 and J-025 sit adjacent to identified historical properties. Existing mitigation efforts that were introduced for the sake of these disturbances, as stated in this PA Memo, were to conduct data recovery investigations and place memorials in such areas containing archeological significance. However, since the issue of this memo, we have encountered the Department of Defense refusing to give updates on more burial grounds discovered through the construction that continues for these projects. Jerick Sablan states in his piece for the Pacific Daily News that it was not until ordered by the Governor of Guam that information about the discoveries located in Camp Blaz were released (Sablan, 2021). To stray from more confliction with the locals that identify with these new-found remains, I firmly believe that reasonable access to updates on archeological discoveries is a mitigation measure required if we are supposed to be promised mitigation through archeological data recovery investigations. How are we, as native inhabitants of this island, to feel reassured that mitigation efforts provided in the Programmatic Agreement are being met when we cannot even trust those with access to these discoveries to release information to the public? If we cannot halt the operations, we still bear enough human rights to know details about ancestral remains that are found. Transparency of important historical information as such is lacking throughout this build-up and is the least we can ask for if disturbances of these locations will remain to not be ceased.

Just as other projects introduced throughout the planning of Guahån's military build-up, adverse effects such as destruction of jungles containing medicinal plants, removal of limestone habitats that harbor our native species, anticipated contamination as a result of construction, erosion, and the many other issues I am sure addressed by many other concerned citizens of Guahån, the implementation of more disturbances to Finegayan, such as the J-011 and J-025, will gradually continue to negatively impact the cultural history we have left undisturbed for centuries. What starts with a few archeological discoveries will, eventually, become a realization that Camp Blaz sits upon lands that are significant to us outside. I am aware, through reading the Programmatic Agreement issued in 2011, that the use of the term "less than significant" is common lingo when addressing what is clearly significant to natives. If not stated enough, these recent discoveries and destruction occurring in Finegayan have

been determined significant to us not benefiting from the projects conducted in this Marine base. As irrational as it may seem to whomever is in favor of this build-up, I am sure we can agree as pure human beings that it takes more than a memorial or implementations of repositories to make up for continuous disrespect for those connected to the bodies being dug up behind the fences.

## Military Relocation PA Memo Comment Form 2019

If submitting via e-mail, scan and send to: [criwebcomment@navy.mil](mailto:criwebcomment@navy.mil)

If submitting via postal mail, send to:

Attn: CRI Web Comments  
Code EV23, NAVFAC Pacific  
258 Makalapa Drive, Suite 100  
JBPHH, Hawaii 96860-3134

Submitted comments will be posted on the Navy's Cultural Resources Information (CRI) web site. Information presented on the CRI web site is considered public. The sections highlighted in red are required to be completed in order for a comment to be posted.

### Privacy Act Statement

Personal information will only be used to contact you regarding the comments you submit. This information will only be shared with another government agency if your inquiry relates to that agency, or as otherwise required by law. We will not create individual profiles or give your information to any private organization. While you must provide a valid e-mail address or postal address, please DO NOT include personally identifying information such as a social security number.

By submitting this comment form, you agree not to include content that is offensive in nature, such as profanity, personal attacks on individuals, and racist or abusive language.

PROJECT: J-011 Base Admin and Communications Building and J-025 Medical Dental Clinic

SUBJECT: PA Memo#1

Date: April 17, 2021

Name: Speaker Therese M. Terlaje

CRI User Name (if you don't want your real name to be posted with your comment on the CRI web site): \_\_\_\_\_

E-Mail Address: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)

and/or

Postal Mail Address: Guam Congress Building, 163 Chalan Santo Papa, Hagatña, Guam 96910

COMMENTS:

I object to DoD's determination that no historic properties are affected by this specific component of the overall project. DoD says "no historic properties are extant in the APE (J-011 and J-025), as the above-mentioned sites were previously mitigated through a separate project. Therefore, the DoD has determined that this project will have no historic properties affected." The PA MEMO also indicates that "two former historic properties were located within the vicinity of the APE (Sites 66-08-2307 and 66-08-2804). These sites underwent mitigation previously for the J-001B U&SI project (see Dixon et al. 2018), and, as a result, these sites are no longer physically present." I find it disingenuous to continually inform the public that no historic properties are affected in these memos when in fact the historic properties have already been removed from its cultural landscape and adversely impacted.

Even though the artifacts at these historic properties are "no longer physically present" because they were cleared as "mitigation" in the form of "data recovery investigations", does not mean the historic properties are not continuously being affected, especially if the historic properties represent contiguous sites, settlement areas, and/or ancient villages. These sites are significant because they were areas chosen for specific, important activities in our history. The impact of the proposed projects would cause a lasting effect on the historic properties mentioned, and in effect further erase these historic sites forever from our use, enjoyment, and/or learning potential.

Additionally, it is important to note that while there are only 2 projects mentioned in the PA Memo, the cumulative damage and removal of historic properties is far greater and should be included in any future PA Memos so that the community understands the full impact of mitigation. How many historic properties within J-001B (Main Cantonment project in Finegayan) have been removed from their historic sites in total?

We have seen at least 10 inadvertent discoveries of artifacts and inadvertent discoveries of human remains of at least 12 individuals from the Latte Period in the last 3 years of clearing and construction activities at the J-001B Main Cantonment area. These 22 inadvertent discoveries do not include the known historic sites that were already excavated and removed in the Main Cantonment area as part of the "data recovery" process which is the removal of only a sampling of archaeologically relevant material (i.e. latte, lusong, earth ovens, pottery pieces, etc.) and any remaining artifacts at the site are left to the discretion of the contractor to dispose of. It is possible that there may be even more historic artifacts or burials destroyed unknowingly or inadvertently during the clearing and grading that went undocumented given the complexity and size of the project. Unfortunately, we may never know what other historic resources were lost for future generations.

While the APE (J-011 and J-025) of this particular PA Memo are not in the Måguak or Saban Fadang areas, they are adjacent.

Archaeologists have said that GHPI Site 66-08-2303 also known as Måguak was a traditional village area and an important site where we have learned information about the past that we didn't know before. In October 2018, Måguak was cleared and bulldozed in contravention of

discussions that the military had with the State Historic Preservation Office (SHPO) and the Guam Preservation Trust to preserve part of the area for an interpretive site which would have kept the historic properties in place in its existing landscape. The historic properties and artifacts found throughout Måguak all the way to Litekyan should be looked at as a broader landscape and a larger CHamoru cultural landscape. As stated in previous PA Memo comments, a large number of known and unknown historic properties in the larger area (J-001B Utilities and Site Improvements (U&SI) Phase II) should be combined, should be reconsidered as a whole, as the combined individual historic sites are potentially an eligible landscape or similar concept. Carving out spots from a larger area full of historic sites is not consistent with how the land was used. The impact of the proposed projects would cause a lasting effect on the historic properties mentioned in this PA memo and the previous memos, and in effect further erase these historic sites forever from our use, enjoyment, and/or learning potential.

It was also revealed during a July 13, 2020 public hearing by the SHPO, that a significant burial with human remains from the Latte Period was inadvertently uncovered near the Måguak site. The burial found was not documented in any of the surveys referenced in the previous PA memos. And we are still slowly learning more about the ancient burials disturbed in the area known as Sabanan Fadang which is within the J-001B footprint.

In conclusion, I reiterate my objections to the removal of historic properties in J-001B and the disturbance of ancient burial sites found or all others that will be disturbed with this process. This is the 7<sup>th</sup> submittal of comments I have submitted since December 2017 regarding the J-001B Main Cantonment project (Finegayan) and in each of my comments I have consistently objected to the clearing of our historic properties and advocated for preservation in place. These are sacred sites where the ancestors of the CHamoru people have been respectfully laid to rest. Furthermore, the denigration, disturbance or appropriation of these sacred sites eliminates any opportunity to attain accurate and new understandings of the past and solidify the ties of the CHamoru people to their heritage and land. These historic sites and cultural landscapes are vital to the history, identity, and well-being of the CHamoru people. There may be many other important findings or historic sites within the surrounding area that should not be removed or built over, for these same reasons. Our historic sites must be preserved in place so that future generations may further solidify their ties to their heritage and land and have the opportunity to interpret the interaction of cultural practices and the environment that helped our ancestors thrive for over 4000 years.



## **Response to Comments Received**

### **PA Memo #1: J-011 Base Admin and Communications Building and J-025 Medical Dental Clinic**

The Cultural Resources Information website was established in accordance with the Programmatic Agreement Among the Department of Defense, The Advisory Council on Historic Preservation, The Guam State Historic Preservation Officer, and The Commonwealth of the Northern Mariana Islands State Historic Preservation Officer Regarding the Military Relocation to the Islands of Guam and Tinian (2011 PA) for collecting public input regarding the identification and evaluation of historic properties, and to comment on DoD's identification and evaluation efforts and findings. The website is not intended to receive other types of concerns. Responses to comments received on the title projects are presented by relevant topic below.

#### Identification Efforts

During planning stages, the Department of Defense (DoD) first conducted a data gap analysis to determine the need for supplemental identification and evaluation surveys and then executed those efforts. The Area of Potential Effects (APE) for these vertical projects have been subject to one or more of the historic property identification efforts listed in 36 CFR §800.4(b)(1), which may include background research, consultation, oral history interviews, sample field investigation and field survey. The Section 106 process requires Federal agencies to take into account the effects of their undertakings on historic properties with the participation of the Guam State Historic Preservation Officer (SHPO) and other consulting and interested parties. The assessment of effects may prompt project modifications or the application of other conditions to avoid adverse effects to historic properties. Whenever possible, the DoD has incorporated re-designs.

#### Evaluation Efforts

The DoD applied the National Register criteria (36 CFR § 63) to evaluate the eligibility of properties for inclusion in the National Register within the APE that may be directly or indirectly affected by the undertaking. As stipulated in the 2011 PA, standard mitigation for any archaeological historic property is data recovery excavations. Furthermore, mitigation measures for adverse effects on historic properties must adhere to the SOI Standards and Guidelines of for the Treatment of Historic Properties.

#### Area of Potential Effects (APE)

The J-011 and J-025 vertical construction projects are located within the larger Marine Corps Base Camp Blaz (MCBCB) main cantonment project footprint also known as J-001B. The construction location previously underwent mitigation for the J-001B Utilities and Site Improvements (U&SI) "horizontal" project, as stipulated by the 2011 PA. The J-001B U&SI project consists of roads, drainage systems, water, wastewater, electrical, communications, security fencing, as well as earthwork activities such as vegetation clearance, grading, cutting/and filling. During this ongoing work, the Navy is conducting additional archaeological efforts consistent with the 2018 resolution agreement with Guam SHPO. Completion of clearing and grading work, and archaeological investigations will occur prior to vertical construction.

#### Inadvertent Discoveries

Stipulation XI. of the 2011 Programmatic Agreement between Navy and the Guam SHPO, provides for a process in the event inadvertent discoveries are made. Construction is paused at the location of inadvertent discoveries and SHPO is notified with a plan of action within 48 hours. (Read the full [2011 PA](#) here). Archaeologists identified in-situ burials in the main cantonment APE through the J-001B mitigation efforts. The burials are not located in the APE for the subject vertical projects. The DoD will be permanently memorializing the burials in their original position and incorporate visitation into the Navy's public access plan.

#### Information Included in Programmatic Agreement Memoranda (PA Memos)

As a federal agency the Navy is required to uphold historic preservation laws, including confidentiality provisions that protect information on the nature and location of archaeological resources and historic properties. To ensure confidentiality provisions are adhered to, historic property information in the public PA Memos is presented in general terms. The Guam SHPO has a consultative role in the Section 106 process that reflects the interests of the citizens of Guam, and SHPO staff provide expertise on historic properties during consultation. In accordance with federal regulations, the SHPO is responsible for working with the DoD in taking into consideration historic properties at all level of planning and development.

#### Cultural Resources Information (CRI) Website

While confidentiality requirements prevents from publicly disclosing the exact nature and location of archaeological resources and historic properties, the CRI website makes other information available to the public. The website requests public input regarding the identification and evaluation of historic properties within project-specific APEs for direct and indirect effects. Additionally, the public has the opportunity to comment regarding DoD's identification and evaluation efforts and findings. Comments received are also displayed on the CRI website.